

IN RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION - N/S Hillen Road, 331.70' E of the C/L of Greenbriar Road (408 Hillen Road) 9th Election District 4th Councilmanic District

\* BEFORE THE \* DEPUTY ZONING COMMISSIONER \* OF BALTIMORE COUNTY \* Case No. 89-12-SPHX

Jerome Rubin, et al  
Petitioners

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

Petitioners herein request a special hearing to approve an exemption of the subject property and its proposed use from classification under "Residential Transition Area", and a special exception to use the subject property as a rooming house, as more particularly described in Petitioner's Exhibits 1.

Petitioners, by Jerome Rubin, appeared, testified, and were represented by Mark A. Epstein, Esquire. Also appearing and testifying on behalf of the Petition were the following: Linda Winegarden, Rabbi Joseph Katz, Reverend Robert Albright, and Scott Rosenfeld. Numerous individuals, all residents of surrounding neighborhoods in which the subject property is located, appeared as Protestants and were represented by H. Patrick Stringer, Esquire and James T. O'Connor, Esquire. John McWilliams, Dolores Parsons, Frank Chandler, and Paul Rohde testified as Protestants. Also appearing and testifying in protest were Chris Ihle, a board member of Fellowship Forest Association, Louise Williams, board member of Knollwood/Donnybrook Improvement Associations, and Ann Orrell, President of the Towson Manor Association.

Testimony indicated the subject property, known as 408 Hillen Road, is zoned D.R. 3.5 and is currently improved with a one and one-half story brick and frame dwelling. Petitioners purchased the subject property

on or about September 29, 1986 with the intention of renting it to the National Bayit Project, hereinafter referred to as the Bayit, a philanthropic organization which establishes homes around the country for Jewish college students to live together while attending school. The subject property was chosen due to its location near Towson State University. From the time of its purchase until June 1988, the house was used by a group of up to six Jewish students who attended Towson State. In late May 1988, all but two of the residents moved out pending the outcome of this hearing.

In August 1987, the Zoning Enforcement Division received an inquiry regarding a potential violation at the subject property due to the fact that there were more than three unrelated adults living at the site. As a result of an investigation, a citation was issued in November 1987 alleging that the use of the property was in violation of the zoning regulations due to the alleged operation of a "rooming house" without benefit of a special exception to use the property as such. Petitioners filed a Notice of Intention to Defend in the violation case. In May of 1988, the Petitioners filed the aforementioned Petitions for Special Hearing and Special Exception, which resulted in a continuance of the District Court zoning violation case pending a decision in this matter. In May 1988 Petitioners elected to have no more than two individuals reside in the house pending the outcome of this hearing.

Petitioners, through their Counsel, contend the Petitions for Special Hearing and Special Exception should not be required as the use of the subject property by the students for religious purposes qualified as a "family" as defined by the Baltimore County Zoning Regulations (B.C.Z.R.) in Section 101. Petitioners argued the occupants live together as a sin-

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gle housekeeping unit and do their cooking on the premises. The following is a summary of the evidence presented.

Dr. Rubin testified that he purchased the property after being approached by a Jewish student about the Bayit Program. He indicated that he believes there is a need for Jewish students who choose to do so to be able to live together to observe the religious customs and keep the Jewish Sabbath laws, as well as kosher dietary laws. Dr. Rubin indicated that at the time he purchased the home, he was advised by a member of the Bayit Program that the proposed use of the subject property met the zoning laws as it should be considered a "family." Dr. Rubin testified that it was his understanding that the students generally ate together, shared meals, assigned various housekeeping and financial duties to members of the house, had the freedom of movement in all rooms, were required to participate in religious holidays and recreational activities, had periodic meetings, kept common books and records, and kept a common bank account to cover the costs of any repairs. He indicated that shortly after his purchase of the property, he had two more bedrooms added to the existing dwelling for a total of six bedrooms. He further testified that he has not made any exterior repairs to the house since his purchase. When questioned by Counsel for his opinion as to whether or not the use of the property by the Jewish students conflicted with any of the requirements of Section 502.1 of the B.C.Z.R., Dr. Rubin testified that he saw no conflict with any of the criteria.

Dr. Rubin testified that he has a lease with the Bayit and each student enters into a lease with the Bayit. On cross-examination, Dr. Rubin indicated that his contract did permit up to seven students to live together, but on no occasion have there been more than six students living

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at this location. He conceded the contract between the Bayit and the students permits termination on thirty (30) days notice. He testified that he is not involved in the day to day conduct or supervision of the property. He further testified that he believed Linda Winegarden was the Supervisor for the Bayit. On cross-examination, he admitted that under the Bayit Operations Manual, the students are only required to eat together on two Friday nights a month. Dr. Rubin conceded that he has plans for an additional parking pad to be added in the rear of the property to cure the adjoining neighbors' concerns about parking problems. He further confirmed that the garage is rented to someone who is not a resident of the dwelling. Dr. Rubin conceded one of the documents introduced by Petitioners indicated that the students were encouraged by the Bayit to use the house for other purposes, such as a coffee house, and to invite a number of people to their home.

Linda Winegarden, a resident of the home from October 29, 1986 to May, 1988 testified that the students share religious holidays, work together in the preparation of meals and share responsibilities for running the house, such as grocery shopping, housecleaning, and celebrating the Sabbath. Ms. Winegarden indicated that the chores were regular and not rotated and that outside supervision by the Bayit occurred approximately once each month. She indicated that the students share a common bank account. She testified that the students are required to sign either a 6-month or 12-month lease. From past experience, those students who did not work out, left voluntarily. She further testified that the students come from different Jewish backgrounds and are only required to eat two Friday meals each month together.

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record books, rules of conduct, share meals and various responsibilities in the house, and national supervision.

In response to the statement of the community associations who oppose the matter as setting a precedent, it was made clear that each case must stand on its own and while the communities may not desire to have a rooming house in their neighborhoods, a rooming house is permitted by Special Exception in a D.R. 3.5 zone. Therefore, if the present use of the property is not permitted as of right, this case must be examined regarding the special exception and RTA requirements.

The initial question in this case is whether the group of students occupying the residence at 408 Hillen Road qualify as a family or as a rooming house as defined by Section 101 of the B.C.Z.R.

Section 101 of the B.C.Z.R. defines family and rooming house as follows:

"family: Any number of individuals lawfully living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel."

"Rooming House: A building:

a) which is the primary residence of the owner and in which rooms are provided, for compensation, to three or more adult persons not related by blood, marriage or adoption to the owner; or

b) which is not the owner's residence and which is occupied in its entirety by three or more adult persons not related by blood, marriage or adoption to each other. The term does not include a hotel, motel or apartment building."

Petitioner contends the individuals residing in the house act as a single housekeeping unit by sharing meals, chores, and a single accounting system; therefore, their use of the premises should be considered as a use by a family. The Protestants argue that in light of the fact that the

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the property since the problem was brought to the attention of Dr. Rubin's son. She testified there had been an increase in the number of cars parking on Hillen Road but she could not establish facts as to whose homes those cars belonged. There was no indication the additional parking on Hillen Road caused any problems. Mrs. Parsons indicated since the property has been occupied by the students, she has only been disturbed by noise on one occasion, July 1, 1988. She further testified that she could not say the disturbance came from 408 Hillen Road.

Frank Chandler, a resident of 120 Greenbriar Road, testified he is 77 years of age and in his opinion, a "rooming house" would be detrimental to the community. He further testified that he was not aware of this particular property or any particular situations and/or problems, or lack thereof, as a result of its occupancy by the students since September 1986.

Paul Rohde, a resident of 403 Brook Road in Greenbriar, testified that his property is contiguous to the rear of 406 and 408 Hillen Road. He testified that he has lived on the property for 29 years. He indicated there has been a growth of vegetation and lack of maintenance to the rear of 408 Hillen Road since its occupancy by the students. He expressed concern regarding surface water run-off which he feels would be exasperated if additional paving was done for additional parking as proposed in Petitioner's Exhibit 1. He conceded he had no problem with noise.

Christine Ihle, Louise Williams and Anne Orrell, as representatives of the Associations specified above, indicated that they are opposed to the granting of the relief requested as they fear it would set a precedent. Ms. Orrell further testified that she sees the use of 408 Hillen Road by the Bayit students as very similar to sororities who have common

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Scott Rosenfeld, a resident of the subject property, testified that in his opinion the use of the house by the students did not conflict with any of the criteria set forth in Section 502.1 of the B.C.Z.R.

John McWilliams, the adjoining property owner at 410 Hillen Road, testified that he has resided at this location for the past two and one-half years. He testified that in his opinion the use of the subject property is detrimental to the health, safety and general welfare of the community as the residents have on numerous occasions left trash and debris on the porch for extended periods of time creating a health hazard. He further indicated that due to the number of individuals residing in the house, and the number of parties and visitors to the home, congestion of Hillen Road has resulted. He indicated that on numerous occasions, either residents or visitors to the home have parked in his driveway blocking him access to and from his home. Testimony further indicated that the driveways of both 408 and 410 Hillen Road about each other with no division between the two. In Mr. McWilliams' opinion, the requirements of Section 502.1 of the B.C.Z.R. are not met as the subject use is detrimental to the community, creates a health problem, and has resulted in congestion in the roads. On cross, Mr. McWilliams conceded he has held parties from time to time and his guests have parked on Hillen Road.

Dolores Parsons testified that she has resided at 406 Hillen Road for the past 26 years. She indicated that prior to the purchase of the subject property by Dr. Rubin, 408 Hillen Road was used as a single-family residence. She indicated that for a period of time after Petitioners' purchase of the property the exterior of the house was not maintained as well as it had been in the past; i.e., grass cut, shrubbery trimmed. However, she testified there was an improvement in the care and upkeep of

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Ms. Winegarden indicated that from time to time they have held various programs at the house, including inviting different friends to the home for different purposes. She indicated that in the two years she has resided in the home, there had been various events, among others, where outside members were invited. For example, a movie about the Israeli/Arab conflict; a barbeque; a Shabbat; an Israel Cafe night; an inter-faith Satyr where approximately 20 individuals were invited to bring cans of food for the homeless. Ms. Winegarden indicated that the minutes introduced as Petitioner's Exhibit 4 were not the minutes of the students at the home, but of the national organization and better reflect the desires and goals of the National Bayit Program, and not necessarily those of this particular home.

Rabbi Katz testified that he is one of two Jewish religious advisors at Towson State University. He testified that in his opinion the living arrangement at the subject location is very similar to a Jewish family arrangement. Rabbi Katz indicated that he had been at the house on one occasion.

Reverend Albright, Coordinator of Towson State's Newman Center, indicated that he has had contact with the students and knows most of the students residing on the subject property. He testified that he has visited the home three or four times; two occasions having a Friday meal, and one occasion a Passover meal. He indicated that he has seen the students share household responsibilities and attempt to create a family environment for religious purposes. On cross, he conceded that the students could use the facilities at the inter-faith center on Towson State's campus for holding their programs, but that kosher kitchens are not available.

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definition of family is specifically distinguished from that of a rooming house arrangement, if the group living arrangement in this instance meets the definition of a rooming house, then it is not a family under the B.C.Z.R. The Protestants contend that the use of the property by Petitioner's rental to the Bayit and the Bayit's rental to the students specifically meets the definition of a rooming house. In particular, the building is rented in its entirety by as many as six college students, none of whom are related to each other by blood, marriage or adoption, and is not the owners' residence.

Clearly, the definition of family as set forth in Section 101 of the B.C.Z.R. is not limited to the restricted traditional definition of the "nuclear family" consisting of only parents, children and the extended family members related by biological or legal family relationships, i.e., grandparents, nieces, etc. It can be argued that under the terms of the definition, any number of persons living together as a single housekeeping unit and doing their cooking on the premises, are entitled to the status of a family. It has been the policy of the Zoning Office in similar types of cases to examine the particular circumstances of each case and examine each case on its own. After reviewing the Petitioners' and Protestants' Memorandums and examining the cases cited therein, while many of the characteristics of the living arrangements of the Bayit appear to be set up as single housekeeping units, the facts are distinguishable.

The controlling factor in considering whether a group of unrelated individuals living together as a single housekeeping unit constitutes a family is whether the residents bear the generic characteristics of a relatively permanent functioning family unit. There must be a kind of stability permanency and functional lifestyle exhibited which is equivalent to the traditional family unit to constitute a "family" in terms of the B.C.Z.R. See In Re: Petition for Special Hearing, Bon Vie, Inc., Case No. 87-208-SPH (Baltimore County Case).

In examining the facts in this case, there is evidence the stay of residents is not permanent as it can be terminated on thirty (30) days notice. The testimony regarding the residents dining together in this factual situation was inconsistent. The residents had to dine at the house as a group on two Friday nights a month; however, the Friday nights need not be the same for everyone. Further, the goal of the Bayit is not limited to serving the "family." The use of the house is not only for the residents, but to open a number of the programs to the community.

Based upon the testimony and evidence presented, and a review of the cases cited in the Petitioners' and Protestants' Memorandums, in the opinion of the Deputy Zoning Commissioner, the use of 408 Hillen Road may be considered a functional household with common religious objectives and beliefs, but it does not constitute a stable and traditionally structured family and does not meet the definition of a family as defined in the B.C.Z.R. and therefore cannot be used as such in a D.R. zone as a matter of right.

The second issue that must be addressed is whether or not the exemption of the subject property and its proposed use as a rooming house from the RTA requirements as set forth in Section 1801.1B.1b of the B.C.Z.R. is appropriate.

Testimony presented in this case indicated that the house is approximately 35 years old and was constructed prior to the enforcement of the RTA, enacted by Council Bill No. 100 passed in 1970 by the Baltimore County Council. Section 1801.B.1.a.1 of the B.C.Z.R. defines a RTA as any

D.R. zone or part which lies "within 300 feet of any point on a dwelling other than an apartment building." There was no dispute to the fact that the subject property and dwelling lie within 300 feet of other dwellings. The conclusion is inescapable that the subject site must comply with RTA requirements unless it is specifically excluded from compliance by legislation. Petitioners conceded at the hearing that the use does not fall within the exceptions to residential transition as set forth in Section 1801.1B.C of the B.C.Z.R. In their memorandum, Petitioners contend that it is exempt pursuant to Section 1801.1B.1d which states that the RTA regulations shall not apply to existing developments described in Section 1802.3, Subparagraph A.1. However, their argument falls on two points. First and foremost, the use is not the same use as that which was approved unless we accept the Petitioners' expanded definition of a "family" which has been rejected. Second, there was no evidence that the lot is in a recorded subdivision approved by the Baltimore County Planning Board or Baltimore County Planning Commission, or approved in accordance with an approved subdivision plan. An examination of the applicable Plat Book referenced by Petitioner and file in the Zoning Office, PB #12-68, Subdivision of Greenbriar, does not evidence compliance with Section 1802.3.A.1 of the B.C.Z.R.

In an unreported decision of the Court of Appeals in the Case of Southland Hills Improvement Association vs. F & S Limited Partnership, Case No. 17, September term, 1985, an exemption was deemed appropriate. In that case, the Court held the subject property to be exempt where there was no change in use or exterior changes to the property. Here, there is disagreement as to whether there have been any external alterations or additions to the premises. The Protestants claim that the proposed addi-

tion of a parking pad and the construction of the temporary structure, which was built to celebrate the religious holiday of Sabbath, result in an external alteration which will disqualify the Petitioners from the relief requested herein, is rejected. However, there has definitely been a change in use of the property from a use as a single-family dwelling, a use permitted as of right, to a rooming house, which is permitted by special exception. Since the County Council did not provide for an exception or exemption to the RTA to include this particular and similar factual situations as being exempt, the RTA must be complied with until and unless legislative provisions to the contrary are enacted in the B.C.Z.R. The Court of Appeals in Miller v. Forty West Builders, 61 Md. App. 320 (1985) stated where a statute expressly provides for certain exclusions, others should not be read into it by implication.

It was uncontested by the parties that if the residents are found not to qualify as a family under the B.C.Z.R., then their use of the subject property falls within the definition of a rooming house. In order for the property to be used as a rooming house, a special exception must be granted.

The third issue to be addressed is whether Petitioners have shown that the proposed use of the property as a rooming house meets the prescribed standards as set forth in Section 502.1 of the B.C.Z.R. and is therefore entitled to a special exception.

It is clear that the B.C.Z.R. permits the use proposed in a D.R. 3.5 zone by special exception. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and

## PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-12-SPHX

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an exemption of the subject property from classification under "Residential Transitional Area" considering that there will be no exterior change in the premises. (See attached regarding requested exemption)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
None	Jerome Rubin and Barbara Rubin
(Type or Print Name)	(Type or Print Name)
Signature	Signature
Address	Lawrence Rubin
City and State	(Type or Print Name)
Attorney for Petitioner:	Signature
Mark A. Epstein	9015 Pittsfield Road
(Type or Print Name)	Address
Signature	363-3363
195 West Chesapeake Ave., Ste. 102	Phone No.
Address	Pikesville, Maryland 21208
Towson, Maryland 21204	City and State
City and State	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Attorney's Telephone No.: 821-1530	Jerome Rubin
	9015 Pittsfield Road
	Pikesville, Maryland 21208 363-3363
	Address
	Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 10th day of May, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 105, County Office Building in Towson, Baltimore County, on the 15th day of July, 1988, at 2 o'clock P.M.

J. Robert Haines  
Zoning Commissioner of Baltimore County.

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Haines  
Zoning Commissioner

September 30, 1988

Mark A. Epstein, Esquire  
105 W. Chesapeake Avenue, Suite 102  
Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND SPECIAL EXCEPTION  
N/S Hillen Road, 331.70' E of the c/l of Greenbriar Road  
(408 Hillen Road)  
9th Election District - 4th Councilmanic District  
Jerome Rubin, et al - Petitioners  
Case No. 89-12-SPHX

Dear Mr. Epstein:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Special Exception have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

Ann M. Nastarowicz  
ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

AMN:bjs

cc: H. Patrick Stringer, Esquire  
Mudd, Harrison & Burch  
Suite 300, Jefferson Building  
105 W. Chesapeake Ave., Towson, Md. 21204

James D. O'Connor, Esquire  
Courthouse Commons, Suite C-3,  
222 Bosley Avenue, Towson, Md. 21204

People's Counsel

File

While the proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, it would be inconsistent with the spirit and intent of the B.C.Z.R. due to its failure to comply with RTA requirements, and therefore, must be denied.

After reviewing all of the testimony and evidence presented, the relief requested in the special hearing and special exception must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on the Petitions held, and for the reasons given above, the Petitions for Special Hearing and Special Exception should be denied.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of September, 1988 that the Petition for Special Hearing to approve an exemption of the subject property and its proposed use from classification under "Residential Transition Area", and the Petition for Special Exception to use the subject property as a rooming house, in accordance with Petitioner's Exhibit 1, be and are hereby DENIED.

AMN:bjs

Ann M. Nastarowicz  
ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The Protestants case is mainly based upon complaints which often cause tension among neighbors. The adjoining neighbor has had problems which have been exasperated by residents of the subject property and their visitors parking in the driveway in a manner that blocks his access to and from his home. The complaints regarding the care of the lawn is a matter which either has been or can be corrected. The testimony of many of the Protestants clearly indicated that they were not even aware of the house being occupied by the students. Mrs. Parsons indicated that other than the failure of the property owner to cut the lawn and trim the shrubs, she had no complaints. While there was an indication that there has been an increase in the number of cars parked on Hillen Road as a result of the students living at 408 Hillen Road, there was no testimony that any parking problems have resulted.

Although compliance with the RTA requirements is a necessary integral factor in determining compliance with Section 502, notwithstanding the presumption of appropriateness of allowing a particular use by right or by special exception in a zone, the most restrictive regulation must control and the regulations must be interpreted as a "whole."



# ATTACHMENT TO PETITION FOR SPECIAL HEARING

The subject property is currently licensed by the Bayit Project, Inc. The Bayit Project, Inc. is a philanthropic corporation established to help set up residences for Jewish college students around the United States. Because of the special dietary needs of religious Jewish students and their desire to observe various Jewish Sabbath customs, both of which would be literally impossible to follow while living on campus, these homes have been established to provide a well supervised and organized facility for such students.

Attached hereto is a "Living Contract" which each resident is required to follow, and also attached is an "Operations Manual" relative to the Bayit program.

The Bayit house is well supervised and representatives from the National Bayit Program regulate the conduct at the house. The persons at the Bayit house live as a "family", sharing their meals, caring for each other when sick and eating Sabbath meals together.

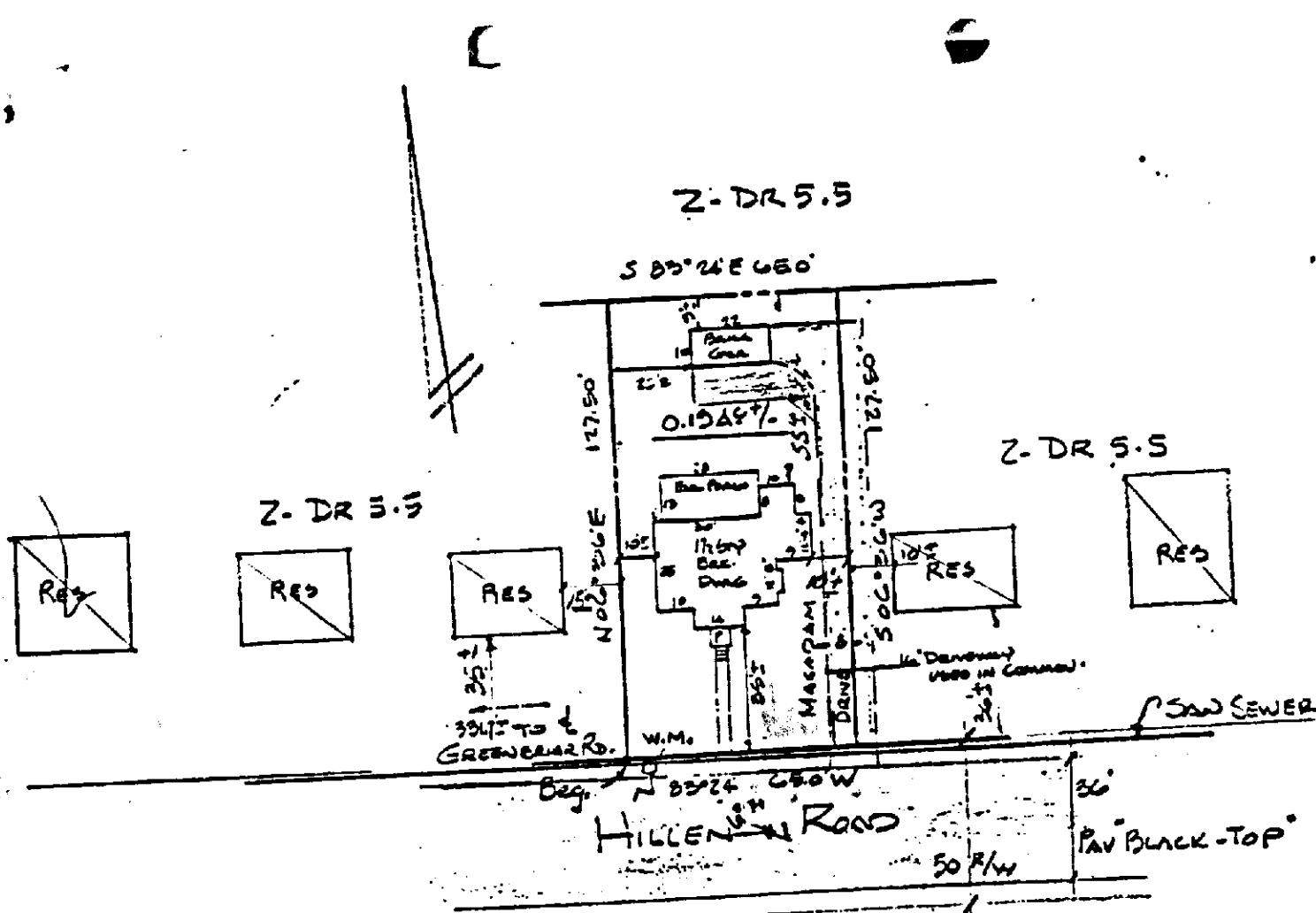
The subject property is in a Residential Transitional Area. Photographs of each elevation of the house are attached hereto. It is respectfully submitted that the outside character of the house will be in no way changed or affected as a Bayit house. Accordingly, we would request an exemption from Residential Transitional Area status so that we may be granted a special exception to continue as an Alternative Living Unit and Boarding House at the premises.

Your Petitioner is willing to make the granting of a special exception conditional upon the continuing licensure by the National Bayit Program.

MARK ALAN EPSTEIN  
Attorney for Petitioner

200/118L

LAW OFFICES  
MARK ALAN EPSTEIN  
SUITE 102  
JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 337-7942



No. PARKING SPACES PROVIDED 3  
No. PARKING SPACES REQUIRED 2

OWNER: Jerome Rubin, PH.D.  
9015 Pittsfield Road  
Baltimore, Maryland 21204

No. 408 Hillman Road  
DISTRICT NO. 9  
BALTIMORE COUNTY, MD.

2 signs

#390



EDWIN J. KIRBY & ASSOC.  
PROFESSIONAL LAND SURVEYORS  
800 GREENSPRING VALLEY ROAD  
LUTHERVILLE, MD. 21093  
301-337-7942  
SCALE: 1" = 50' DATE: 4/21/88

## PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Rooming House

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 52410

DATE: 4/25/88 ACCOUNT: 01-615-000

AMOUNT: \$ 200.00

RECEIVED FROM: Mark Alan Epstein, Jerome Rubin

FOR: Sp. Ex. # 390 UOR

B 042\*\*\*\*\*2000014 4271F

VALIDATION OR SIGNATURE OF CASHIER

City and State

Attorney for Petitioner:

Mark A. Epstein

(Type or Print Name)

Signature

105 W. Chesapeake Ave., Ste. 102

Address

Towson, Maryland 21204

City and State

Attorney's Telephone No.: 821-1530

Zoning Regulations.

Advertising, posting, etc., upon filing the zoning regulations and restrictions Baltimore County.

I/We do solemnly declare and affirm, the penalties of perjury, that I/we the legal owner(s) of the property is the subject of this Petition.

per(s):

Rubin and Barbara Rubin

(Type Name)

Signature

Rubin

(Print Name)

Signature

9015 Pittsfield Road 363-3363

Address Phone No.

Pikesville, Maryland 21208

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Jerome Rubin

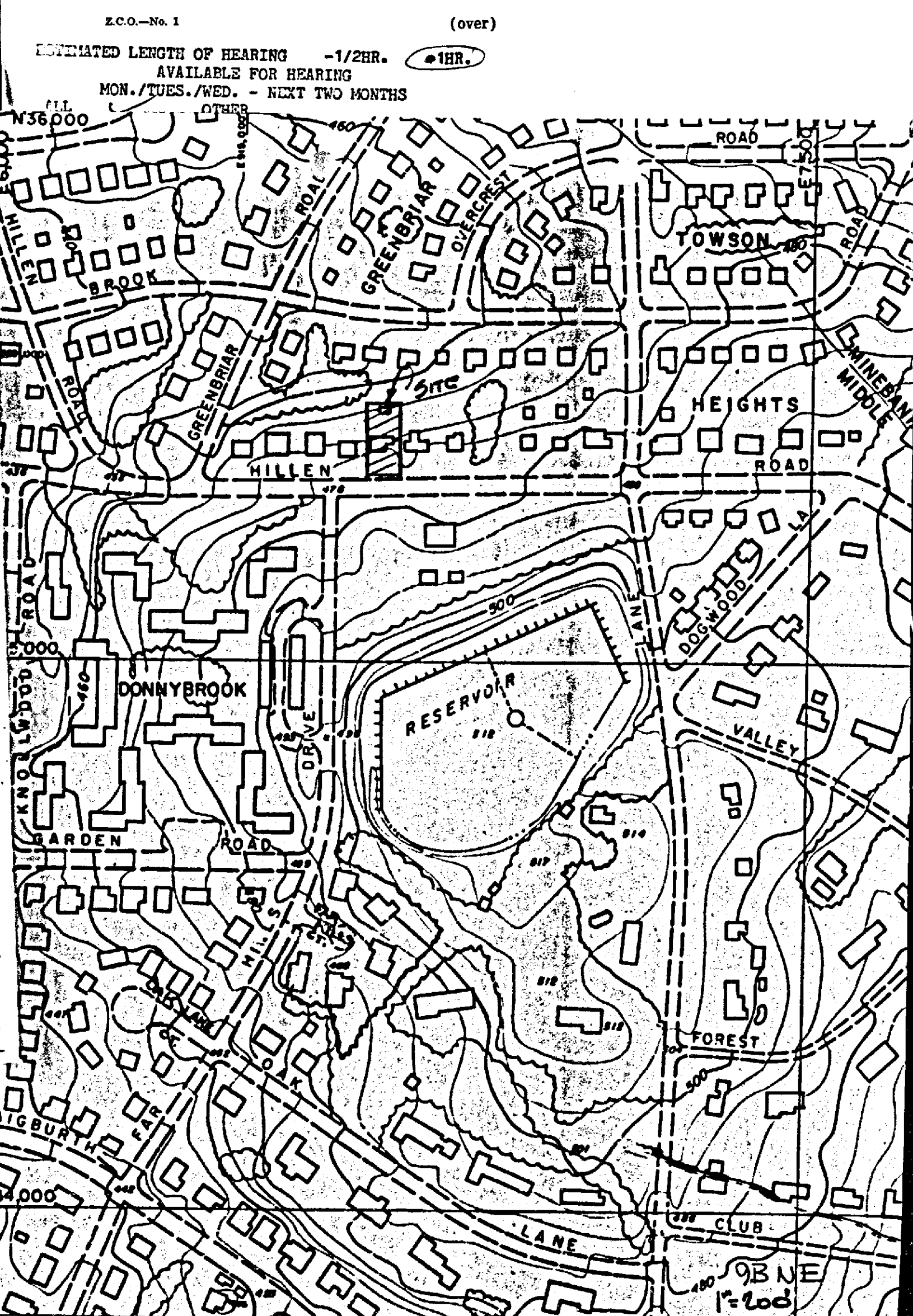
9015 Pittsfield Road

Pikesville, Maryland 21208 363-3363

Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 10th day of MAY, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 25th day of July, 1988, at 9 o'clock A.M.

J. Robert Haines  
Zoning Commissioner of Baltimore County.



## ZONING DESCRIPTION

No. 408 Hillman Road  
Baltimore County, Md.

Beginning for the same at a point on the northernmost side of Hillman Road as shown on the Plat of "Greenbriar" recorded among the Land Records of Baltimore County in Plat Book No. 12 folio 68, said point being distant 331.70 feet more or less measured in an easterly direction from the intersection of the abovementioned side of Hillman Road as laid out 50 feet wide and the centerline of Greenbriar Road as laid out 50 feet wide and shown on the abovementioned Plat and running thence and leaving Hillman Road (1) North 06°36'00" East 127.50 feet, (2) South 83°24'00" East 65.00 feet (3) South 06°36'00" West 127.50 feet to a point on the abovementioned side of Hillman Road and thence binding thereon (4) North 83°24'00" West 65.00 feet to the place of beginning,..... containing 0.19 acres of land more or less.

EDWIN J. KIRBY, JR. MS 3481  
301-337-7942



LAW OFFICES  
MARK ALAN EPSTEIN  
SUITE 102  
JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 337-7942

RECEIVED  
APR 25 1988  
"LICENSED BY MARYLAND AND VIRGINIA"  
March 23, 1988

Baltimore County Zoning Office HAND DELIVERED  
Towson, Maryland 21204

Re: 408 Hillman Road, Towson, Maryland

To Whom It May Concern:

Enclosed please find for filing the following documents in connection with the above-captioned property:

1. Petition for Special Exception (3 copies).
2. Petition for Special Hearing (3 copies).
3. Site plan (10 copies).
4. Vicinity Map (10 copies).
5. Legal Description (10 copies).

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

Mark Alan Epstein/kyw.

MARK ALAN EPSTEIN

MAE:kw

cc: Dr. Jerome Rubin

Enclosures  
200/121L

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER  
PETITION FOR SPECIAL HEARING  
N/S Hillman Rd., 331.70' E C/L : OF BALTIMORE COUNTY  
Greenbriar Rd. (408 Hillman Rd.) :  
9th District

JEROME RUBIN, et al., Petitioner: Case No. 89-12-SPHX

## ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman  
Phyllis Cole Friedman  
People's Counsel for Baltimore County

Peter Max Zimmerman  
Peter Max Zimmerman  
Deputy People's Counsel  
Room 223, Court House  
Towson, Maryland 21204  
494-2188

I HEREBY CERTIFY that on this 23rd day of June, 1988, a copy of the foregoing Entry of Appearance was mailed to Mark A. Epstein, Esquire, 105 W. Chesapeake Ave., Suite 102, Towson, MD 21204, Attorney for Petitioners.

Peter Max Zimmerman  
Peter Max Zimmerman

## CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 9th Date of Posting: 7/9/88  
Posted for: Special Hearing & Special Exception  
Petitioner: Jerome Rubin, et al.  
Location of property: 408 Hillman Rd., 331.70' E of Greenbriar Rd.  
Location of Sign: 408 Hillman Rd., corner W. Fr. Rd.,  
on the part of Petitioner.  
Remarks:  
Posted by: [Signature] Date of return: 7/9/88  
Number of Signs: 2

## "DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD., June 30, 1988  
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of successive weeks, the first publication appearing on June 30, 1988.

THE JEFFERSONIAN,

S. Zake Orlan  
Publisher

37.50

\$ 131.30

NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property described in the description and plat attached hereto and made a part hereof, for the purpose of considering a petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for Rooming House.  
Petitioner: Jerome Rubin, et al.  
Hearing Date: Monday, July 25, 1988 at 9:00 A.M.  
Special Hearing: An exemption of the subject property and proposed use from classification under "Residential Transitional Area" Section 1801.18.1 is being considered that there will be no change in the use of the property.  
Special Exception: A Rooming House.  
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of a building permit during the period for appeal.  
Such request must be in writing and received in the office by the date of the hearing or before the date of the hearing as above or presented at the hearing.  
J. ROBERT HAINES  
Zoning Commissioner of Baltimore County  
6430 June 30.







LAW OFFICES  
MARK ALAN EPSTEIN  
SUITE 102  
JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 821-1530

RECEIVED ZONING OFFICE  
DATE: 8/23/88

\*LICENSED IN MARYLAND AND VIRGINIA  
August 23, 1988

Baltimore County Office of Zoning HAND DELIVERED  
County Office Building  
Room 111  
Towson, MD 21204

Attn: Ann M. Nastorowicz, Deputy Commissioner

Re: Petition for Special Exception  
Case No.: 89-12-SPHX  
N/A Hillen Road, 331.70' E c/l Greenbriar Road  
(408 Hillen Road)

Dear Commissioner Nastorowicz:

As I believe that a response to the Protestants' Memorandum would be repetitious to my original Memorandum, I have decided to file no response.

Respectfully yours,

MARK ALAN EPSTEIN

MAE:rw

cc: H. Patrick Stringer, Esq.--Hand Delivered  
James D. O'Connor, Esq.--First Class Mail  
Dr. Jerome Rubin  
30E/90L

LAW OFFICES  
MARK ALAN EPSTEIN  
SUITE 102  
JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 821-1530

RECEIVED  
AUG 19 1988

ZONING OFFICE

\*LICENSED IN MARYLAND AND VIRGINIA  
August 19, 1988

Baltimore County Office of Zoning HAND DELIVERED  
County Office Building  
Room 111  
Towson, Maryland 21204

Attn: Ann M. Nastorowicz, Deputy Commissioner

Re: Petition for Special Exception  
Case No.: 89-12-SPHX  
N/A Hillen Road, 331.70' E c/l Greenbriar Road  
(408 Hillen Road)

Dear Commissioner Nastorowicz:

Please be advised that it was my impression that my Memorandum of Law was due on Friday, August 5, 1988, although I now note that the actual deadline may have been August 4, 1988. You will note that the Memorandum was hand-delivered to your office just prior to closing on August 5, 1988, and because it was late afternoon we mailed the copies to both opposing counsel who should have received them on Monday, August 8, 1988. I even forwarded you a copy of all my case law the following Monday.

Patrick Stringer, Esq., attorney for the Greenbriar Community Association, recently moved into the same building I am in, and if I had known that prior to August 5, 1988, I would have hand-delivered that simultaneously to his office at the same time I hand-delivered the Memorandum to your office; however, the delay to Mr. Stringer would have caused him a loss of a weekend, or two (2) days at the most. If my computation for the filing deadline was off, please accept my emphatic apology. If I thought I had passed the deadline date, I would have requested an extension. The message I received from your office was that you granted Mr. Stringer an extra week in which to file his Memorandum due in part to the fact that you thought I filed mine a few days late without asking for an extension.

LAW OFFICES  
MARK ALAN EPSTEIN

I wanted to clarify this situation since I thought I had filed the Memorandum on time. Mr. Stringer had raised the point of Mr. O'Connor's vacation at the hearing, and I had thought they were not being given an extension based on the vacation in view of the urgency of the situation to the prospective student occupants of the house.

In any event, by copy of this letter to Mr. Stringer, I am asking that he hand-deliver my copy of his Memorandum so that I will have enough time to respond in light of the one (1) week delay.

Again, my apologies for any misunderstanding.

Respectfully yours,

MARK ALAN EPSTEIN

MAE:kw

cc: Patrick Stringer, Esq. (Hand-Delivered)  
James D. O'Connor, Esq.

207/64L

LAW OFFICES  
MURDO, HARRISON & BURCH  
SUITE 102  
JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 821-1530  
TELEFAX: (301) 821-1548

August 12, 1988

Baltimore County Office of Zoning  
County Office Building  
Room 111  
Towson, Maryland 21204

Attn: Ann M. Nastorowicz, Deputy Commissioner

Re: Petition for Special Exception  
Case No.: 89-12-SPHX  
N/A Hillen Road, 331.70' E c/l Greenbriar Road  
(408 Hillen Road)

Dear Commissioner Nastorowicz:

Following the hearing on Petition for Special Exception on July 25, 1988, you requested that protestants submit a Memorandum within twenty days, so that our Memorandum is due Monday, August 15, 1988. However, we did not receive petitioner's Memorandum until Monday, August 8, 1988, and my co-counsel, James O'Connor, has been on vacation the entire week of August 8th and will not be returning until the week of August 15th. He has never had the opportunity to see petitioner's Memorandum and it is, therefore, impossible for Mr. O'Connor to respond by the due date of August 15th. As Mr. O'Connor's corroboration is very helpful to me, I am requesting an extension of time to file our Memorandum until Friday, August 19, 1988, which is an extension of only four days.

Thank you very much for your attention to this matter.

Very truly yours,

H. Patrick Stringer, Jr.  
H. Patrick Stringer, Jr.

cc: Mark Alan Epstein, Esq.

HPS/mdd

LAW OFFICES  
MARK ALAN EPSTEIN  
SUITE 102  
JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 821-1530

\*LICENSED IN MARYLAND AND VIRGINIA  
August 5, 1988

Baltimore County Office of Zoning HAND DELIVERED  
County Office Building  
Room 111  
Towson, MD 21204

Attn: Ann M. Nastorowicz, Deputy Commissioner

Re: Petition for Special Exception  
Case No.: 89-12-SPHX  
N/A Hillen Road, 331.70' E c/l Greenbriar Road  
(408 Hillen Road)

Dear Commissioner Nastorowicz:

Enclosed please find a Memorandum of Law submitted in connection with the above-referenced case. My secretary will deliver to your office on Monday copies of all cited cases for your convenience.

Thank you for your kind attention to this matter.

Respectfully yours,

MARK ALAN EPSTEIN

MAE:rw

Enclosure

cc: Jerome Rubin, Ph.D.  
H. Patrick Stringer, Jr., Esq.  
James D. O'Connor, Esq.

30E/71L

LAW OFFICES  
MARK ALAN EPSTEIN  
SUITE 102  
JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 821-1530

RECEIVED  
AUG 9 1988

ZONING OFFICE

\*LICENSED IN MARYLAND AND VIRGINIA  
August 8, 1988

Baltimore County Office of Zoning  
County Office Building  
Room 111  
Towson, MD 21204

Attn: Ann M. Nastorowicz, Deputy Commissioner

Re: Petition for Special Exception  
Case No.: 89-12-SPHX  
N/A Hillen Road, 331.70' E c/l Greenbriar Road  
(408 Hillen Road)

Dear Commissioner Nastorowicz:

Enclosed please find the copies of case law promised to you in my letter of August 5, 1988.

Very truly yours,

MARK ALAN EPSTEIN

MAE:rw

Enclosures

cc: Jerome Rubin, Ph.D.--w/out enc.  
H. Patrick Stringer, Jr., Esq.--w/out enc.  
James D. O'Connor, Esq.--w/out enc.

30E/72L

LAW OFFICES  
MARK ALAN EPSTEIN  
SUITE 102  
JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 821-1530

\*LICENSED IN MARYLAND AND VIRGINIA  
July 18, 1988

Zoning Office  
County Office Building  
Room 111  
Towson, Maryland 21204

Re: Petitions for Special Hearing and Special Exception  
Case No.: 89-12-SPHX  
N/A Hillen Road, 331.70' E c/l Greenbriar Road  
(408 Hillen Road)  
Hearing Scheduled: Monday, July 25, 1988 @ 9:00 A.M.

To Whom It May Concern:

Pursuant to your request of July 6, 1988, I am enclosing herewith a check made payable to Baltimore County, Maryland in the amount of one hundred thirty-one dollars and thirty cents (\$131.30) representing the amount due for advertising and posting of the above-referenced property.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

MARK ALAN EPSTEIN

MAE:kw

Enclosure

205/90L

RECEIVED  
JUL 20 1988  
ZONING OFFICE

LAW OFFICES  
MARK ALAN EPSTEIN  
SUITE 102  
JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 821-1530

\*LICENSED IN MARYLAND AND VIRGINIA  
August 10, 1988

Baltimore County Office of Zoning  
County Office Building  
Room 111  
Towson, Maryland 21204

Attn: Ann M. Nastorowicz, Deputy Commissioner

Re: Petition for Special Exception  
Case No.: 89-12-SPHX  
N/A Hillen Road, 331.70' E c/l Greenbriar Road  
(408 Hillen Road)

Dear Commissioner Nastorowicz:

The purpose of this letter is to make one (1) minor correction to the facts stated in my Memorandum of Law. The date on which Dr. Rubin reduced the number of occupants in the house to two (2) people was May 15, 1988, and not July, 1988.

If you should have any questions, please do not hesitate to contact me.

Very truly yours,

MARK ALAN EPSTEIN

MAE:kw

cc: Jerome Rubin, Ph.D.  
H. Patrick Stringer, Jr., Esq.  
James D. O'Connor, Esq.

207/35L

RECEIVED  
AUG 15 1988  
ZONING OFFICE



Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Haines  
Zoning Commissioner

Jerome Rubin, et al  
9015 Pittsfield Road  
Pikesville, Maryland 21208

Re: Petitions for Special Hearing and Special Exception  
CASE NUMBER: 89-12-SPHX  
N/S Hillen Road, 331.70' E c/l Greenbrier Road  
(408 Hillen Road)  
9th Election District - 4th Councilmanic  
Petitioner(s): Jerome Rubin, et al  
HEARING SCHEDULED: MONDAY, JULY 25, 1988 at 9:00 a.m.

Dear Petitioners:

Please be advised that \$131.30 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office at 111 Allegheny Avenue, Towson, Maryland 21204, on (15) minutes before the hearing.

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 52956

DATE: 7/13/88 ACCOUNT: 01-115-0000

AMOUNT: \$ 131.30

RECEIVED FROM: JEROME RUBIN, et al

FOR: Posting & Advc

POST: 8231-115-1310-00

VALIDATION OR SIGNATURE OF CASHIER

File

Date: 7-6-88



Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
494-3333

J. Robert Haines  
Zoning Commissioner

June 6, 1988

### NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Hearing and Special Exception  
CASE NUMBER: 89-12-SPHX  
N/S Hillen Road, 331.70' E c/l Greenbrier Road  
(408 Hillen Road)  
9th Election District - 4th Councilmanic  
Petitioner(s): Jerome Rubin, et al  
HEARING SCHEDULED: MONDAY, JULY 25, 1988 at 9:00 a.m.

SPECIAL HEARING: An exemption of the subject property and proposed use from classification under "Residential Transitional Area" Section 1801.18.1.b considering that there will be no exterior change in the premises.  
SPECIAL EXCEPTION: A Rooming House.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES  
Zoning Commissioner of  
Baltimore County

cc: Jerome Rubin, et al  
Mark A. Epstein, Esq.  
Dolores Parsons  
John & Joyce McWilliams  
James D. O'Connor, Esq.  
H. Patrick Stringer/Greenbrier Community Association

first receiving his notice of the zoning violation, long before his day in court on March 16, 1988.

We see no reason why the Defendant should be allowed to continue to violate the zoning regulations until a hearing is held on a special exception, which has not yet been set, will be at least months away, which is very unlikely to be granted, and which Dr. Rubin has stated he will appeal.

Accordingly, we ask that this absentee owner not be allowed to operate a boarding house in our neighborhood until a hearing is held on the special exceptions, and that his request for a postponement be denied.

Thank you for your consideration of our position.

Very truly yours,

H. Patrick Stringer  
President, Greenbrier  
Community Association

cc: Mark A. Epstein, Esquire  
Jeffrey Long, Zoning Inspector  
Mary Welcome, Esquire  
Joyce & John McWilliams  
Dolores Parsons  
Carl Richards

HPS/mdd

The Honorable John H. Garner  
District Court of Maryland  
for Baltimore County  
111 Allegheny Avenue  
Towson, Maryland 21204

Re: Case No. 22636-87 SP/T  
Citation No.: 12042  
Trial Date: May 11, 1988

Dear Judge Garner:

The above case concerns a zoning violation at 408 Hillen Road, which is located in the neighborhood of Greenbrier. The zoning violation concerns the use of the residential property to operate a rooming house for college students without a special exception. The Defendant has recently requested a postponement of the trial date of May 11, 1988.

On behalf of the Greenbrier Community Association, we vigorously oppose the Defendant's request for a postponement of his trial date. In his request, Dr. Rubin lays the blame for his failure to file a Petition for Special Exception "to delays caused by the surveyor." Of course, Dr. Rubin refers only to delays in filing for a special exception since his initial court date of March 16, 1988, when Judge Gerald Wittstadt continued the case to allow Dr. Rubin seven days to apply for a special zoning exception. Dr. Rubin offers no reason whatsoever why he could not have filed for a special exception before he unilaterally chose to violate the zoning regulations in August, 1987, by renting this residence in our neighborhood to a group of college students. Moreover, the Baltimore County Zoning Enforcement Office sent a correction notice for the zoning violation to Dr. Rubin on September 10, 1987, stating that the Defendant had until October 9, 1987, to comply. The Defendant failed to comply with the zoning regulations, and a citation was issued on November 6, 1987, and if my understanding is correct, the delay in 1987, was at Dr. Rubin's representation that he would file for a special exception at that time. In any event, Dr. Rubin could have filed for a special exception after

RECEIVED  
JUN 2 1988

### ZONING OFFICE

110 Hillen Road  
Towson, Maryland 21204  
May 18, 1988

Mr. J. Robert Haines  
Zoning Commissioner  
Baltimore County Office of Planning & Zoning  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Petition for Special Exception 408 Hillen Road

Dear Commissioner Haines:

The owners of the property located at 408 Hillen Road have filed for a special exception to current zoning ordinances.

Dr. Lawrence Rubin, Barbara Rubin and Jerome Rubin intend to operate a rooming house and in fact, have been operating an illegal rooming house since September, 1986. In District Court on May 11, 1988, the Rubins agreed to comply with existing zoning until such time as a special exception is granted, if ever.

The Greenbrier Community and surrounding community organizations vigorously oppose the granting of a special exception. The granting of such would have a permanent negative effect on our community.

We respectfully request a speedy zoning hearing on this matter. The Greenbrier Community is concerned this case will continue indefinitely since the Rubins have indicated they will appeal if not granted a special exception.

Your consideration regarding our request is appreciated.

Sincerely,

John R. McWilliams  
Home - 828-8434  
Work - 740-3824

cc: Pat Stringer - President, Greenbrier Community Association  
Jeff Long - Zoning Inspector  
Carl Richards - Balto. Co. Office of Planning & Zoning  
Mary Welcome, Esquire - Balto. Co. Office of Law

JMCH/mk

DISTRICT COURT OF MARYLAND FOR BALTIMORE COUNTY  
Located at 111 Allegheny Ave., Towson, MD 21204  
Case No. 22636-87 SP/T  
Citation No.: 12042  
Trial Date: MAY 11, 1988 at 1:30 P.M.

STATE OF MARYLAND  
OR  
J. Robert Haines-Zoning Commissioner  
Jerome Rubin, PH.D.

Plaintiff/Judgment Creditor  
Vs.  
Defendant/Judgment Debtor

### MOTION FOR POSTPONEMENT

Jerome Rubin, PH.D., by his attorney, Mark A. Epstein, moves for a postponement of his trial for May 11, 1988, at 1:30 P.M. on the following grounds:

1. Due to delays caused by the surveyor, Defendant just recently filed the Petition for Special Exception and Special Hearing.  
2. Upon the review of the Petitions filed on April 25, 1988, by the Office of Planning and Zoning, some minor changes and additions need to be made to the location survey by the surveyor.  
3. Jeffrey Long, from the Office of Planning and Zoning, does not object to the postponement.  
4. The Defendant has exercised due diligence in pursuing this matter, but has been having severe difficulty in getting the surveyor to comply with the Office of Planning and Zoning.

☐ Request Hearing on Motion.

May 2, 1988

MARK A. EPSTEIN  
105 W. Chesapeake Ave., Ste. 102, Towson, MD  
821-1530  
Telephone No.

### CERTIFICATE OF SERVICE

I certify that I served a copy of this Motion upon the following party or parties by mailing first class mail, postage prepaid, on May 2, 1988 to:

Jeffrey Long, Zoning Inspector  
Mary Welcome, Esq.  
Dolores Parsons  
Joyce McWilliams  
Carl Richards

Zoning Enforcement Section, County Office Bldg  
Office of Law, Counsel for Baltimore County  
408 Hillen Rd., Balto., MD 21204  
419 Hillen Road, Balto., MD 21204  
Balto. Co. Office of Planning and Zoning

May 2, 1988

MARK A. EPSTEIN  
Signature of Party Serving

It is hereby ORDERED that:

☐ the relief requested be granted.

☐ the hearing on Motion be set for

May 2, 1988

DC 1 (Rev. 9/84)

(This form replaces the CV 67.)

DISTRICT COURT OF MARYLAND FOR BALTIMORE COUNTY  
Located at 111 Allegheny Ave., Towson, MD 21204  
Case No. 22636-87 SP/T  
Citation No.: 12042  
Trial Date: MAY 11, 1988 at 1:30 P.M.

STATE OF MARYLAND  
OR  
J. Robert Haines-Zoning Commissioner  
Jerome Rubin, PH.D.

Plaintiff/Judgment Creditor  
Vs.  
Defendant/Judgment Debtor

### MOTION FOR POSTPONEMENT

Jerome Rubin, PH.D., by his attorney, Mark A. Epstein, moves for a postponement of his trial for May 11, 1988, at 1:30 P.M. on the following grounds:

1. Due to delays caused by the surveyor, Defendant just recently filed the Petition for Special Exception and Special Hearing.  
2. Upon the review of the Petitions filed on April 25, 1988, by the Office of Planning and Zoning, some minor changes and additions need to be made to the location survey by the surveyor.  
3. Jeffrey Long, from the Office of Planning and Zoning, does not object to the postponement.  
4. The Defendant has exercised due diligence in pursuing this matter, but has been having severe difficulty in getting the surveyor to comply with the Office of Planning and Zoning.

☐ Request Hearing on Motion.

May 2, 1988

MARK A. EPSTEIN  
105 W. Chesapeake Ave., Ste. 102, Towson, MD  
821-1530  
Telephone No.

### CERTIFICATE OF SERVICE

I certify that I served a copy of this Motion upon the following party or parties by mailing first class mail, postage prepaid, on May 2, 1988 to:

Jeffrey Long, Zoning Inspector  
Mary Welcome, Esq.  
Dolores Parsons  
Joyce McWilliams  
Carl Richards

Zoning Enforcement Section, County Office Bldg  
Office of Law, Counsel for Baltimore County  
408 Hillen Rd., Balto., MD 21204  
419 Hillen Road, Balto., MD 21204  
Balto. Co. Office of Planning and Zoning

May 2, 1988

MARK A. EPSTEIN  
Signature of Party Serving

It is hereby ORDERED that:

☐ the relief requested be granted.

☐ the hearing on Motion be set for

May 2, 1988

DC 1 (Rev. 9/84)

(This form replaces the CV 67.)

LAW OFFICES  
MARK ALAN EPSTEIN  
SUITE 102  
JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 821-1530

\*LICENSED IN MARYLAND AND VIRGINIA

May 2, 1988

Clerk  
District Court of Maryland  
for Baltimore County  
111 Allegheny Avenue  
Towson, Maryland 21204

Re: J. Robert Haines-Zoning Commissioner vs. Jerome Rubin, PH.D.  
Case No.: 22636-87 SP/T  
Citation No.: 12042

Dear Clerk:

Enclosed please find a Motion for Postponement to be filed in the above-captioned case.

Very truly yours,

MARK ALAN EPSTEIN

MAE:kw

cc: Jerome Rubin, PH.D.  
Jeffrey Long, Zoning Inspector  
Mary Welcome, Esq.  
Dolores Parsons  
Joyce McWilliams  
Carl Richards

Enclosure

201/77L

RECEIVED  
MAY 4 1988  
ZONING OFFICE



RECEIVED  
JUN 2 1988

ZONING OFFICE

410 Hillen Road  
Towson, Maryland 21204  
May 18, 1988

Mr. J. Robert Haines  
Zoning Commissioner  
Baltimore County Office of Planning & Zoning  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Petition for Special Exception 408 Hillen Road

Dear Commissioner Haines:

The owners of the property located at 408 Hillen Road have filed for a special exception to current zoning ordinances.

Dr. Lawrence Rubin, Barbara Rubin and Jerome Rubin intend to operate a rooming house and in fact, have been operating an illegal rooming house since September, 1986. In District Court on May 11, 1988, the Rubins agreed to comply with existing zoning until such time as a special exception is granted, if ever.

The Greenbrier Community and surrounding community organizations vigorously oppose the granting of a special exception. The granting of such would have a permanent negative effect on our community.

We respectfully request a speedy zoning hearing on this matter. The Greenbrier Community is concerned this case will continue indefinitely since the Rubins have indicated they will appeal if not granted a special exception.

Your consideration regarding our request is appreciated.

Sincerely,

*John R. McWilliams*  
John R. McWilliams  
Home - 828-8434  
Work - 740-3824

CC: Pat Stringer - President, Greenbrier Community Association  
Jeff Long - Zoning Inspector  
Carl Richards - Balto. Co. Office of Planning & Zoning  
Mary Melcone, Esquire - Balto. Co. Office of Law

JMcW/mk

In the Matter of \* BEFORE THE DEPUTY  
JEROME RUBIN, et al. \* ZONING COMMISSIONER  
for a Special Exception \* OF  
for a Rooming House on \*  
Property Located on the \* BALTIMORE COUNTY  
North Side of Hillen Road, \*  
331.70 feet East C/L of \* Case No. 89-12-SPHX  
Greenbrier Road \* \* \*

PROTESTANTS' MEMORANDUM OF LAW

STATEMENT OF THE CASE

Petitioner, Dr. Jerome Rubin, filed Petitions for a Special Hearing for an exemption from the restrictions of a Residential Transition Area and Special Exception to operate a rooming house in a single family house at 408 Hillen Road, located in Greenbrier, a neighborhood consisting of approximately 200 single family homes. At the hearing on July 25, 1988, 87 protestants attended the hearing opposing the granting of the Special Exception, Protestants filed Petitions containing 255 to 260 signatures opposing the Special Exception, and the Presidents of seven (7) Community Associations in proximity to 408 Hillen Road submitted a letter to the Commissioner opposing the Petitions for a Special Hearing and Special Exception. At the conclusion of the hearing, the Deputy Zoning Commissioner requested legal memoranda from the Petitioner and Protestants.

RECEIVED  
AUG 19 1988

ZONING OFFICE

STATEMENT OF FACTS

Dr. Jerome Rubin, a psychologist residing in Reisterstown, Maryland, purchased 408 Hillen Road, a single family house located in Greenbrier, a residential neighborhood of single family homes. Prior to its purchase by Dr. Rubin, 408 Hillen Road was used exclusively as a single family residence. Dr. Rubin remodelled the home to increase the number of bedrooms to six (6), and rented the home to the Bayit Project, a national organization with its principal office in California, and closest local office in Washington, D. C. The Bayit Project in turn leased the home to approximately six (6) Towson State University students, each of whom signed separate, short term leases for one or two semesters while attending college. The Bayit is a temporary living arrangement for the students while they go to college. Each year, different college students come and replace those before them, and those leaving go their separate ways. None of the students are related by blood, marriage or adoption.

The students do not eat their regular daily meals together. The Bayit living contract requires only that students eat two Friday evening meals per month at the Bayit, (see Petitioner's Exhibits 2 and 3), and Linda Weingarten, a former Bayit resident, testified that the

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students generally do not eat meals together except for two Friday evenings per month.

The Bayit has no house leader or supervisor. A representative of the national Bayit organization visits once a month, and Dr. Rubin admitted he had only visited the home infrequently and was not personally knowledgeable regarding the day to day activities of the residents. Dr. Rubin identified Linda Weingarten, a Towson State student, who was not living at the Bayit at the time, as the group leader, but Linda, herself, denied that she was the group leader or supervisor.

Dorothy Siegel, Vice President of Student Affairs at Towson State University, recruits students to live in the Bayit, and has recommended the house to many Towson State students for living arrangements. (Petitioner's Exhibit 7).

The Bayit is used as a coffee house and meeting house for other Towson State organizations and "lots of students" are invited to the house. (Petitioner's Exhibit 4).

ARGUMENT

I. THE RENTAL OF 408 HILLEN ROAD TO A GROUP OF SIX (6) COLLEGE STUDENTS NOT RELATED BY BLOOD, MARRIAGE OR ADOPTION CONSTITUTES A ROOMING HOUSE, NOT A FAMILY, FOR WHICH A SPECIAL EXCEPTION IS REQUIRED.

The Baltimore Zoning Regulations define "Family"

as:

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Cum. Supp. p. 220.

The Bayit is a temporary living arrangement during a college semester. The students living at the Bayit each have separate, short term leases of six months or one year. The residents change each year. Only one student has been in 408 Hillen Road since its operation as a Bayit, while six or seven others have come and gone their separate ways. (Petitioner does not even know exactly how many students have lived in the house during any one semester or how many have left the house.) The living contract (Exhibit 3) provides that a resident may give "thirty days notice of intent to leave...or forfeit the security deposit." (See also Exhibit 2, p.28). The students have gone home to their parents for the summer, living with their traditional and true families. It is clear, therefore, that the Bayit is not a permanent home, but a temporary living arrangement, and accordingly, is not a "family."

Another critical characteristic of a family, lacking in the Bayit, is a head of the household. "The minimal arrangement to meet the test of a zoning provision, as this one, [defining "family"], is a group headed by a householder caring for a reasonable number of children as one would be likely to find in a biologically unitary family. *White Plains v. Ferraioli*, supra, 34 N.Y. 2d 300, 71 A.L.R. 3d at 691, 4 Rathkopf, *The Law of Zoning & Planning*, Cum. Supp. p. 221. In the Bayit, there is no

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The communal living group in question does not share the characteristics of a traditional family in a number of important ways. The foremost characteristic of a "family" is a degree of constancy or permanency. 4 Rathkopf, *The Law of Zoning & Planning*, Cum. Supp. p. 215, 221. To constitute a family a group home must bear the generic character of a family unit as a relatively permanent household, and is not a framework for transient living. *Id.* at 221, *City of White Plains v. Ferraioli*, 34 N.Y. 2d 300, 313 N.E. 2d 756, 71 A.L.R. 3d 687 (1974). The Court of Appeals of New York contrasted a group home, which did constitute a "family," from a group of college students sharing a house and commuting to a nearby school, which is merely a temporary living arrangement. The Court stated:

"The group home is not, for purposes of a zoning ordinance, a temporary living arrangement as would be a group of college students sharing a house and commuting to a nearby school. (Citation Omitted). Every year or so, different college students would come to take the place of those before them. There would be none of the permanency of community that characterizes a residential neighborhood of private homes. Nor is it like the so-called 'commune' style of living. The group home is a permanent arrangement and akin to a traditional family, which also may be sundered by death, divorce, or emancipation of the young. Neither the foster parents nor the children are to be shifted about; the intention is that they remain and develop ties in the community." *City of White Plains*, supra, 34 N.Y. 2d 300, 71 A.L.R. 3d at 690. See also 4 Rathkopf, *The Law of Zoning & Planning*,

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established principal of statutory construction that a statute must be read in its entirety and as a whole, *City of White Plains v. Ferraioli*, supra, and Petitioner is not free to delete or disregard an entire clause of a definition. Reading the entire definition of family as a whole, one must look to the definition of "rooming house," and since all conditions of a "rooming house" are met in the instant case, the arrangement is a rooming house, not a family.

"Where a 'family' is defined as a single-housekeeping unit, a number of court decisions in recent years have interpreted the phrase to include only so-called 'functional' families of persons who share a relatively stable and bona fide housekeeping unit and that have at least some of the characteristics of a traditional family living arrangement. Courts interpreting the phrase in this manner are likely to consider whether the household is relatively stable, possesses a family like structure of household authority, functions as an integrated economic unit, evidences some family-like domestic bond between members, and whether the household has the potential to negatively impact the family character of the residential area." 2 Rathkopf *The Law of Zoning & Planning*, Sec. 17A.03(b), p. 17A-33

This interpretation of the phrase will likely result in the exclusion of relatively transient groups of students such as fraternities and sororities." *Id.*

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"Any number of individuals lawfully living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel." B.C.Z.R. Section 101.

Because the definition of a family is expressly distinguished from a rooming house arrangement, if a group living arrangement constitutes a rooming house, then it is not a family under the Zoning Regulations. Analyzing the arrangement existing at 408 Hillen Road demonstrates, without question, that it is a rooming house. The Baltimore County Zoning Regulations define "Rooming House" as:

"A building... (b) which is not the owner's residence and which is occupied in its entirety by three or more adult persons not related by blood, marriage or adoption to each other. The terms does not include a hotel, motel or apartment building." B.C.Z.R. Section 101.

The Petitioner's own testimony established that 408 Hillen Road is not his residence, and the building is rented in its entirety by as many as six (6) or seven (7) college students, none of whom are related by blood, marriage or adoption to each other. Because the rental is clearly a rooming house, it is not a "family" as defined by the Zoning Regulations. Petitioner asserts in his Memorandum that the definitions of "family" and "rooming house" are not to be read together, but Petitioner overlooks the express language in the definition of family distinguishing "family" from "rooming house". It is a well

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household leader, no houseparent and no supervision. A representative of the national Bayit Organization from Washington, D.C. visits once a month; Dr. Rubin admitted he visits only rarely, and does not go inside and is not personally knowledgeable regarding the day to day activities of the residents. Dr. Rubin identified as a supervisor a former Bayit member who herself is merely a Towson State student, but the student, herself, denied that she was the group leader or supervisor.

The Baltimore County Zoning Office has issued guidelines to be considered in determining whether a group home or alternative living unit meets the definition of "family" as defined by the Baltimore County Zoning Regulations. A group home or A.L.U. meets the definition of "family" only if the following conditions are satisfied:

1. A continuous and uninterrupted stay of residents for a period of time.
2. The house may be used for treatment of residents only, and shall not be used for treatment of persons not actually residing therein.
3. The residents cannot conduct their lives totally independently from each other.
4. The residents generally live and eat together as a unit.
5. There must exist a bona fide housekeeping unit.
6. The home must bear the generic characteristics of a family unit as a relatively permanent household.

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7. There must be supervision provided to some degree.
  8. The residents assume certain responsibilities to the housekeeping unit.
  9. There exists appropriate federal, state, and/or local governmental approval.
  10. A planned program for the residents exists.
- Baltimore County Zoning Office Policy Manual, RM-5.

Analysis of the ten criteria needed to meet the definition of "family" reveals that the Bayit meets few of the conditions. The students do not eat their regular daily meals together. The Bayit living contract requires only that students eat two Friday evening meals per month at the Bayit. (Petitioner's Exhibits 2 and 3), and Linda Weingarten, a former Bayit resident, testified that the students generally do not eat meals together except for two Friday evenings per month. The Bayit does not bear the generic characteristic of a family unit as a relatively permanent household. Rather, as discussed earlier, the students have separate, short term leases of only six (6) months or one (1) year. The residents change each year, going their separate ways. Residents may give thirty (30) days notice of intent to leave, and presently, the students have gone home to their parents for the Summer.

There is no supervision provided at the Bayit. As stated above, a representative from the National Bayit Organization visits from Washington, D. C. once a month, and

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Dr. Rubin, himself, testified that he does not supervise or have any knowledge of day to day activities within the house.

The house certainly provides no treatment for residents.

There exists no appropriate Federal, State or local government approval. Indeed, Dr. Rubin has been cited for a zoning violation at 408 Hillen Road, but the Petitioner ignored the citation until the end of the school semester when the students returned to their own homes and families. Baltimore County Zoning officials' own interpretation of their guidelines is that the conditions in the Bayit do not meet the definition of "family."

Given the fact that students go home for the Summers and new students replace the former residents, the Bayit is not a "continuous and uninterrupted" stay for an appreciable period of time.

Zoning is intended to control the uses and types of housing, and a county has a proper purpose in limiting the uses in a zone to single-family units. White Plains v. Ferraioli, supra, 34 N.V. 2d 300, 71 A.L.R. 3d at 690. The testimony and minutes of the Bayit meeting (Petitioner's Exhibit 4), establish that the Bayit project is not a family use of 408 Hillen Road. A Bayit project contemplates frequent gatherings of outsiders, including such diverse uses as "using the Bayit as a meeting house for other

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organizations," a "coffee house," "club" of Towson State University, and the residents are encouraged to "invite lots of students" to the Bayit. (Petitioner's Exhibit 4 and testimony of Dr. Rubin and Linda Weingarten). Moreover, the Vice-President for Student Affairs at Towson State University has referred many students to the Bayit (Petitioner's Exhibit 7). How many other families recruit family members? (See also the Operations Manual, Exhibit 2, regarding the need to recruit students).

Given these diverse purposes of the Bayit, it is not a family use. As the Bayit Operations Manual correctly labels it, the Bayit "is an organization," (Exhibit 2, p.1) with a Board of Directors (Exhibit 2), quite different then a "family." If this Organization constitutes a "family," it is difficult to imagine any group or organization that would not be considered one family as long as it had one kitchen in the house. As Anne P. Orrell, President of the Towson Manor Association, testified, fraternities and sororities have all the indicia which the Bayit claims makes them a "family," such as one kitchen facility, having a single bank account for household maintenance, performing chores, adhering to rules of conduct and sharing household duties. Indeed, fraternities and sororities are closer to a true family than Bayit members, as fraternity and sorority members consider themselves brothers and sisters, do eat together and have greater supervision. It is far fetched,

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B.C.Z.R. Section 1B01.1B1c delineates the only exceptions to the application of the RTA restrictions. The County Council has provided eleven specific exceptions to the RTA restrictions, none of which are applicable to the subject property. In discussing the exceptions set forth in B.C.Z.R. Section 1B01.1B1c, the Court of Special Appeals, in Miller v. Forty West Builders, 61 Md. App. 320 (1985) states that there is "no basis for extending the exceptions" beyond those specifically provided by the Baltimore County Council. The Court stated that "where a statute expressly provides for certain exclusions, other should not be" read into it by implication. The Court further stated that if the Legislature intended other exclusions, it could easily expressly add them to the existing ones. Miller Id. at 337 (citing other cases).

Petitioners concede that application of the RTA restrictions to the property is fatal to their Petition for Special Exception. Furthermore, Petitioners do not even suggest that the proposed use meets the criteria for one of the exceptions set forth in B.C.Z.R. Section 1B01.1B1c. Rather, Petitioners assert that the use restrictions of B.C.Z.R. Section 1B01.1B do not apply to the property by virtue of the provisions of B.C.Z.R. Section 1B01.1B1d which states:

"The provisions of Sub-subparagraphs a and b of this Sub-paragraph shall not apply to existing developments as described in

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testimony indicated that up to the purchase of the property by the Petitioners in September, 1986, the house had been used for single family purposes". See Petitioners' Memorandum, page 16. Accordingly, B.C.Z.R.1B01.1B2 limits use of the property that that already lawfully established. The change in use of the property to a rooming house as requested by Petitioners is prohibited by the use regulations applicable to this existing development.

B. The Subject Property Does not Comply With the Residential Transition Area (RTA) Restrictions and Does not Qualify for an Exception.

A Residential Transition Area (RTA) is any DR zone within 300 feet of any other dwelling. A Residential Transition Use includes the rooming house Special Exception use requested by Petitioners. Residential Transition uses are permitted only subject to the restrictions which narrowly circumscribe development in those areas. The restrictions provide for a maximum height of 35 feet, a maximum width or length, minimum setbacks, a 50-foot minimum buffer area, minimum separation between principal buildings, restrictions on use in the buffer area and lighting limitations. The provisions of B.C.Z.R. Section 307 regarding variances are not available in an RTA. The RTA restrictions are mandatory when they apply and there is no authority to grant a variance from these mandatory restrictions.

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Supplementary Use Restrictions for existing subdivisions are set forth in B.C.Z.R. Section 1B01.1B. B.C.Z.R. Subparagraph 1B01.1B.2 provides as follows:

"Use Regulations in Existing Developments. In existing developments as described in Sub-paragraph A.1 of Subsection 1B02.3, uses shall be limited to those now lawfully established on file with the Office of Planning and Zoning, except as may otherwise be permitted under provisions adopted pursuant to the authority of Section 504. [Bill No. 100, 1970.]"

An existing development is described in Subparagraph A.1 of Subsection 1B02.3 as follows:

"Any lot which is in a recorded residential subdivision approved by the Baltimore County Planning Board or Baltimore County Planning Commission and which has been used, occupied, or improved in accordance with the approved subdivision plan; [Bill No. 100, 1970.]"

The subject lot is in a recorded residential subdivision which has been approved by the Baltimore County Planning Commission. The Petitioners concede that the subject lot "has been used in accordance with the subdivision plan..." See Petitioners' Memorandum, pages 15 and 16. Accordingly, use of the property is limited to that now lawfully established.

At the hearing, the undisputed testimony of the neighbors surrounding the property was that prior to Petitioners' acquisition of the property, the house had been used solely for single family owner occupied residential use since at least 1962. The Petitioners concede that "[a]ll

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however, to believe that the County Council intended that all such groups constitute "families" so that they can use a single family house in a DR Zone as a matter of right under B.C.Z.R. Section 1B01.1.

Finally, the religious affiliation of the residents of 408 Hillen Road should have no bearing whatsoever on whether they constitute a "family." The definition in the B.C.Z.R. makes no reference to religious affiliation. Moreover, the Petitioner's thinly veiled insinuation that they are the objects of discrimination is unfounded and preposterous. Indeed, what the Petitioner seeks is favored treatment because of the residents' religious beliefs. To accord Jewish students, or persons of any denomination, special treatment on the basis of religious beliefs would be a violation of the constitutional separation of Church and State and violation of the Equal Protection clause of the United States Constitution.

The group of college students renting 408 Hillen Road do not constitute a "family" as defined by the B.C.Z.R., and therefore, cannot use a house in a DR Zone as a matter of right.

II. PETITIONER'S REQUEST FOR SPECIAL EXCEPTION CANNOT BE GRANTED.

A. The Supplementary Use Restrictions on Existing Subdivisions Prohibit the Change in Use Requested by Petitioners.

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Sub-paragraph A.1 of Subsection 1B02.3...."

The undisputed testimony indicated that the property is in a recorded residential subdivision approved by the Baltimore County Zoning Commission which has been used exclusively since the 1960's as an owner occupied single family residence. The property is located in an existing development as described in Subparagraph A.1 of Subsection 1B02.3. However, B.C.Z.R. Section 1B01.1.B1d does not create an additional exception or exemption from the RTA restrictions but rather provides that the "provisions" of Subparagraphs a and b do not apply to such properties. The effect is that residential transition uses are not permitted in existing developments described in Subparagraph A.1 of Subsection 1B02.3 notwithstanding the fact that the RTA restrictions could have been met or that an exception as set forth in B.C.Z.R. Section 1B01.1B1c applies. Thus Sub-subparagraph (d) is consistent with the restrictive use regulations in existing developments limiting uses in an existing development to those already lawfully established.

There was no change in use of the property involved in the Southland Hills vs. F & S Limited Partnership case referred to in the unreported decision of the Court of Special Appeals, Case No. 17, September Term, 1985. The Board of Appeals stated on Page 2 of its Opinion that "there was testimony that prior to Petitioner's

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purchase in 1979, the property was leased for other than a residence and since that time, no residential family use has occurred." The Court of Special Appeals on Page 3 of its unreported Opinion stated that "in fact, no evidence was offered at the Board of Appeals hearing to indicate that the use or the structure of the 'existing development' had changed since appellee's purchase of it." (Underlining added). Thus, both the Board of Appeals in its initial decision and the Court of Special Appeals in affirming that decision specifically relied upon the fact that the granting of the relief would not effect a change in use of the property. By contrast, the Petitioners purchased 408 Hillen Road with the sole intent of changing the existing lawfully established use of the property. In the Southland Hills case, the lack of exterior additions or alterations was only found to be significant in light of the fact that there was to be no change in use of the property. The lack of exterior additions or alterations was not established as an additional RTA exception. The Court of Special Appeals made it clear in the Forty West case that additional exceptions can only be established by the County Council and the County Council has not done so.

C. The Special Exception Must be Denied Pursuant to B.C.Z.R. Section 502.

Petitioners' Request for a Special Exception for use of the subject property as a rooming house in a RTA must

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be denied. The use for which the special exception is requested will be detrimental to the health, safety and general welfare of the locality involved; will tend to create congestion in roads, streets or alleys; will tend to overcrowd land and cause undue concentrations of population; is inconsistent with the purposes of the property zoning classification; is consistent with the spirit and intent of the Baltimore County Zoning Regulations; and is inconsistent with the impermeable surface and vegetative retention provisions of the Baltimore County Zoning Regulations.

Apart from the fatal application of the supplementary use restrictions of Section 1B01B, the Petition for Special Exception cannot be granted because Petitioners have failed to meet the applicable burden of proof under B.C.Z.R. Section 502 and the standards set forth in Schultz vs. Fritz, 291 Md. 1 (1981). "The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the Legislature has determined to be permissible absent any fact or circumstance negating the presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in a particular case is in harmony with the general purpose and intent of the plan." Schultz, at 11.

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A rooming house is defined as a building which is not the owner's residence and which is occupied in its entirety by three or more adult persons not related by blood, marriage or adoption to each other. The special use of the subject property as a Bayit house creates uniquely adverse circumstances with adverse impact above and beyond that inherently associated with rooming houses. The property has been purchased by absentee owners who have contractually surrendered control of the property to an unsupervised group of college students. There is no continuity of residency. Turnover and transition is contemplated and mandated by the fluid circumstances of the student residents. The Bayit Living Contract permits termination of residency upon thirty days' notice. The entire structure of the Bayit is designed to produce temporary residency and turnover. The stability and continuity of residency of the normal rooming house situation is lacking.

The house is not managed by the owners. Indeed, Dr. Rubin testified that he has very little idea as to what goes on at his property, who lives there at any one time and what those persons are doing at any time. The responsibility for maintenance and upkeep is abdicated to whichever students may be living at the property at any given time. This system of maintenance and management has resulted in Health Department violation reports, long-term

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granted because of the pervasive and uniquely detrimental effects of the proposed use.

#### CONCLUSION

The Protestants request that the Petitions for Special Hearing and Special Exception be denied.

H. Patrick Stringer, Jr.  
James D. O'Connor

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 19th day of August, 1988, a copy of the foregoing was hand delivered to Mark Alan Epstein, Esquire, Suite 102 - Jefferson Building, 105 W. Chesapeake Avenue, Towson, Maryland 21204.

H. Patrick Stringer, Jr.

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Unlike the property at 307 West Chesapeake Avenue which was the subject of The Southland Hills case, Greenbrier is not an area "changing from strictly residential to commercial and business use". There is no "church lot directly across the street" with commercial parking. This is not a case where the "abutting property is a multi-story office building of some 70,000 to 80,000 square feet with a large parking area". The plat submitted with the subject Petition does not show "parking to already exist on the rear of the lot for seven automobiles, plus a side driveway". See opinion of the Board of Appeals, Page 3.

Hundreds of surrounding property owners have registered their opposition to the operation of this rooming house in their neighborhood. These property owners have gone on record with their belief that the rooming house use will be detrimental to the health, safety and general welfare of their neighborhoods. These property owners are entitled to the protection of the Baltimore County Zoning Regulations which are intended to preserve the residential character of their neighborhoods. The introduction of commercial enterprise is inconsistent with the residential zoning classification of these properties and is inconsistent with the spirit and intent of the zoning regulations. The request for special exception may not be

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opportunities are limitless". Likewise, the potential problems presented by the very unique Bayit rooming house situation are limitless and are well beyond those inherently incident to a normal rooming house.

In addition to substantially differing from a normal rooming house, the Bayit is disturbingly similar to sorority houses and fraternal organizations throughout the country. All have selected membership, delegated duties, in-house cooking, common rent, meetings, limited supervision and college students. Such use is inconsistent with the purposes of the property's residential zoning classification. Such use is also inconsistent with the spirit and intent of the B.C.Z.R. which seek to promote appropriate utilization of property, consistent with the health, safety and general welfare of the surrounding property and property owners.

The testimony from all parties at the hearing establish that there was inadequate parking upon the property to fulfill the Bayit's proposed daily needs. The streets and the land will be congested and overcrowded by operation of a "Social Action" center at 408 Hillen Road. The proposed paving of the steeply graded driveway and the creation of additional paved parking area in the sloped backyard will necessarily increase the runoff of surface waters onto surrounding properties from these impermeable surfaces.

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trash storage upon the property in adequate containers, vegetative overgrowth and at least one rat emerging from the tall grass upon the property into a neighbor's yard. In comparison to a normal rooming house, the nature and purpose of the Bayit program is to promote a transient, fluid and unstable household without long-term commitments. The number and the identity of residents is calculated to change at least three or more times per year as the college semesters begin and end and summer vacation comes and goes.

The purpose of the usual rooming house is to provide housing. The purpose of the Bayit is to provide a community action center for public gatherings and rituals at the property. The Operations Manual for The Bayit Project delineates the Social Action purposes of the Bayit on Pages 13 and 14. The Bayit is encouraged to be "active in the community by doing things such as '[s]tarting a new group for social, prayer, study, political purposes and using the Bayit as a gathering place.' A very important goal of the Bayit is said to be "to invite people into the Bayit to experience Shabbat or other celebrations so that they can experience the warmth of a Jewish home." Another stated purpose of the Bayit is to host "community events at the Bayit". The Bayit Living Contract requires the residents to "participate in one Bayit community event per month". See Operations Manual, page 29. The Operations Manual points out that "[t]hese are a few suggestions, but the

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IN THE MATTER OF  
JEROME RUBIN, ET AL  
FOR A SPECIAL EXCEPTION  
FOR A ROOMING HOUSE UNDER  
BILL 44-82 ON PROPERTY  
LOCATED ON THE NORTH SIDE  
OF HILLEN ROAD, 331.70' E  
C/L OF GREENBRIAR ROAD

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF  
\* BALTIMORE COUNTY  
\* CASE NO.: 89-12-SPHX

MEMORANDUM OF LAW  
FACTS

On or about September 29, 1986, the Petitioners purchased a thirty-five year old residence in the Greenbriar Subdivision of Baltimore County at 408 Hillen Road. That property is zoned D.R.3.5, which allows single-family use as of right and a rooming house as a special exception. From the time of its purchase until about June of 1988, the house was used by a group of up to five Jewish students at Towson State University who lived communally and as a single housekeeping unit. The house has six bedrooms and two full baths with a long driveway and parking facilities in the rear. Although a commitment to live in the house for a period of time is understood, students have occasionally been known to leave the house during the term if they were unable to abide by the rules and regulations.

Household chores were shared by the students and delegated to each other, cooking and clean-up responsibilities were shared, a common bookkeeping account was kept for repairs and food costs, and Sabbath meals and other Jewish and community projects were given communal priority. Religiously observant students had a place to keep the Jewish Sabbath laws and customs as well as the

kosher dietary laws, which they would be unable to do while living on campus. Eating the Sabbath meal, saying the Sabbath prayers, saying various holiday prayers when they occurred during the week or on weekends, singing religious songs around the meal table, all as are commonly practiced by observant Jewish families related by blood, were conducted at the house.

The availability of the house to Jewish students was made possible by its purchase for that purpose by Dr. Jerome Rubin, who had been advised that the house complied with zoning laws due to its nature as a "family unit". This advice was provided by the National Bayit Program ("Bayit" means "home" in Hebrew), a philanthropic organization which establishes such homes around the country so that Jewish students who wish to live as a family in a communal and religiously observant atmosphere while attending college can do so. There is no other such facility at Towson State University. The National Bayit Program leases the house from Dr. Rubin, and Jewish Towson State College students collectively pay their rent to the National Bayit Program.

From its inception on Hillen Road, for a period of about two and a half years, the Bayit co-existed peacefully and amicably with the community except for its next door neighbor who complained of trash bags being left in the yard and cars from the Bayit parking on his side of the common driveway. Eventually the neighbor filed a complaint alleging that the Bayit constituted a rooming house. Rather than risking a conviction of zoning violation charges, the Petitioners are herein requesting that the Zoning Commissioner classify the Bayit as a "family" which would

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entitle it to exist as a matter of right; or in the alternative, to grant a special exception and exemption from Residential Transition Area status as a permitted rooming house under Bayit guidelines.

At the hearing, most of the protestants were simply concerned about the precedent-setting affect the establishment of a rooming house would have on the neighborhood. The principal protestant, Mr. McWilliams, testified time and time again that he has the same complaints about the existence of the student Bayit next to his house whether operated by one student or six, and even showed pictures of the condition of the house as of July, 1988, after the number of its occupants was reduced to two, as a basis for his objection. Further, all of his testimony in which he stated that the requirements of \$ 502.1 for a special exception were adversely affected by the Bayit, indicated his displeasure with the existence of the Bayit "per se" in his neighborhood whether occupied by one student or six. He indicated a similar displeasure at the prospect of any rental use of the house whatsoever.

ISSUE AS TO QUALIFICATION AS "FAMILY"

The threshold question in this case revolves around whether the group of students occupying the residence at 408 Hillen Road for religious purposes qualifies as a family as defined by Baltimore County Zoning Regulation (B.C.Z.R.) 101, which defines a family as:

"Any number of individuals lawfully living together as a single housekeeping unit and doing their cooking on the premises,

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as distinguished from a group occupying a boarding or a rooming house or hotel."

(Webster's Third International Dictionary-unabridged, among almost a full column of other definitions at 11c) defines a family as:

"A group of people bound together by philosophical, religious or other convictions." p. 821)

In a strikingly similar case to the Baltimore County case at hand, the New York Supreme Court interpreted a zoning ordinance passed by the City of New Rochelle in which the word "family" was defined almost exactly the same:

"Family: One or more persons occupying a dwelling unit as a single, non-profit housekeeping unit."

The New York Supreme Court, in allowing a group of college students to qualify as a family, held as follows:

"The City's legislative body has the right to define the term 'family'. It is done so, placing no limitation on the number of persons constituting a family, nor does it require that the members thereof be related by blood or marriage." Matter of LaPorte, 2 A.D.2d 710, 152 N.Y.S.2d, 916 at 918 (1956).

Conspicuously missing from the B.C.Z.R. definition of "family" is any requirement of affinity by blood, marriage or adoption. In fact, the definition specifically omits any limitation as to the number of individuals living in the household. It has generally be held that where the zoning regulations do not require relationship by blood or marriage, a "family" can exist pursuant to the zoning regulation without

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circumstances free of detriment to the general health, safety and welfare ...". Gabe Collins Realty, Inc. v. City of Margate, 112 N.J. supra, 341, 271 A.2d 430 at 434 (1970). The Courts have gone so far as to state that the taking in of boarders does not necessarily destroy the characteristic of family even though persons are not related by blood or marriage. See Brady v. Superior Court, 200 C.A.2d 69 at 79 (1962).

In the Margate case, supra, the Superior Court of New Jersey recognized that dwelling units large enough to accommodate a normal family could easily be susceptible to occupancy by more than two unrelated persons "without such accompanying threat to the public welfare, and any of its many aspects, including zoning, as warrants a restriction of occupancy to so few in number." In such cases, restricted zoning regulations have been held unconstitutional as a violation of the due process clause and equal protection clause of the United States Constitution. Margate, Id.

It is generally only where the use by the religious institution creates an actual danger by virtue of traffic congestion and the conduct of the occupants that the Courts have gone so far as to indicate that the use cannot exist. But the mere assertion that the religious use would tend to reduce property values, create traffic problems, or disturb the peace and quiet of the neighborhood have not necessarily deprived its use. American Law of Zoning, supra, at § 12.27 at p. 555. In this case, the testimony from all persons was that the Bayit did not create annoying noises or disturbances, and although

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Although there have been many cases allowing religious groups to exist in single-family neighborhoods, and other cases which do not (See 71 ALR3d, § 15(a)), a review of the cases cited throughout the ALR annotation showed two (2) basic concepts:

1. In most cases in which the religious group is held to violate the single-family ordinance, the zoning regulations specifically require a blood relationship for a "family to exist";

2. The religious groups that were not allowed to exist were essentially members of a given convent or religion living together or merely sponsored by a religious group without actually conducting religious customs and traditions on the premises, as is the case here.

It has also generally been recognized that in interpreting the definition of "family" within the local zoning regulations, religious uses have been very difficult to exclude from even the most restricted residential zone, and in many cases the religious aspect of use, and not the definition itself, has been the prime reason for approving the use. See American Law of Zoning, 3d, Anderson (1986) at § 9.36, pp. 216-217, and cases cited therein. In fact, it has been held that the municipal regulations restricting occupancy of single-family homes to those related by blood and marriage have been "unreasonably restrictive of the ordinary and natural utility of such property as dwellings for people, and that the right of unrelated people in reasonable number to have recourse to common housekeeping facilities in

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something which does not appear in it. The Court indicated that if the town had wanted "family" to be defined that way, then it would have passed a different ordinance, and further recited the proposition that "a zoning ordinance is to be strictly construed against the town, not against the property owner". (Citing other cases.)

A review of zoning laws and cases across the country, as particularly annotated in the ALR citation cited above, makes clear one essential premise of zoning regulation interpretation; namely, that the Courts will not impose any restrictions into regulations which are not specifically delineated in the regulation itself. Accordingly, as in the instant case, where the zoning regulation simply requires any number of people living together to operate as a single housekeeping unit, the Bayit should be considered a family.

It was clear from the testimony, and unopposed by the protestants, that the people living at the house were essentially acting as one housekeeping unit; that is, a number of their meals, especially the traditional Sabbath meal, were eaten together, cleaning chores were shared and assigned to different individuals in the house, there was a single accounting system with funds being deposited in a single housekeeping account, the occupants care for one another in sickness, and the house operated as a single unit within the National Bayit written guidelines. In addition, each resident was required to sign a contract agreeing to live by those guidelines.

- 6 -

those requirements having been satisfied. 71 ALR3d, § 3 at p. 703, "What Constitutes Family". In addition, the Courts have refused to impose limitations on the number of persons composing the family where the regulation does not impose a restriction. Id.

The LaPorte case, supra, was cited again by the Supreme Court of New York in Town of Ithaca v. Lucente, 36 A.D.2d 560, 317 N.Y.S.2d 679 (1971), wherein the Court again upheld the right of a group of Cornell University college students to occupy a home as a "family" within the context of a similar zoning regulation. In that case the Court was faced with an argument by the protestants that the students constituted a "rooming house" and not a "family", which is the same argument we have in this case. The ordinance in Ithaca defined a "family" as:

"One or more persons related by blood, marriage or adoption \* \* \* or a group of one or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, rooming house, lodging house, club, fraternity, hotel or motel." The statute was later amended to delete the definition of a "rooming house". Town of Ithaca, supra, at p. 680.

As in the within case, the protestants in Ithaca argued that the definitions of "family" and "boarding house" should be read together, so that more than three unrelated persons living together would constitute a boarding house instead of a family. At page 681 the Supreme Court essentially upheld the reasoning described infra that the Court will not read into a regulation

- 5 -



there was testimony that more cars were noticed parked on the street at times, there was no testimony at all about traffic congestion or lack of parking.

Anderson, in his treatise entitled American Law of Zoning (1986) at § 12.21, et seq., states that:

"Churches, synagogues, and other institutions dedicated to religious objectives are in some degree protected from the full impact of zoning restrictions." (emphasis added) These uses are favored for reasons ranging from their unique contribution to the public welfare to constitutional guarantees of freedom of worship...

The Courts repeatedly emphasize the high purpose and moral value of religious institutions. The contribution of religious use to the public welfare is regarded as beyond discussion or dispute, and the fostering rather than the hindering of such uses is considered to be established policy... The constitutions of the United States and the several states guarantee freedom of religion...

Religious uses...must be centrally located; the efficiency of their service would be impaired if they were required to locate in places not convenient or accessible to their members. In addition, they serve neighborhoods by providing a meeting place for civic and charitable groups...within walking distances of homes..."

Anderson later summarizes the national trend of law as the First Amendment to the U.S. Constitution which guarantees freedom

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of religion has been applied to the states by the Fourteenth Amendment and thereby to local zoning regulations:

"It reflects the high regard for religious values which exists throughout the United States, (which must) neither interfere with nor participate in the religious life of the community..."

At the Baltimore County hearing in this case there were a couple of complaints that there were more cars parked along the street than usual, and that trash bags have been left around the house without being disposed. Again, Anderson cites a number of cases at page 550 standing for the proposition that:

"While the location of religious uses may be regulated...the freedom of religion and other First Amendment rights rise above mere property rights, and far above public inconvenience, annoyance or unrest. An adverse effect on property values is an insufficient reason for denial of a permit to establish a religious use; the high purpose and moral values of the religious use outweigh mere pecuniary loss to a few persons (unless the loss is substantial)."

Indeed, the Supreme Court of New York has stated that:

"New York adheres to the majority view that religious institutions are beneficial to the public welfare by their very nature. (Cases cited) Consequently, a proposed religious use should be accommodated, even when it would be inconvenient for the community." Holy Spirit Assoc. v. Rosenfeld, 458 N.Y.S.2d 920 (1983).

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The Court also stated that it is well settled "that public intolerance, animosity or unrest does not justify the prohibition of free assembly and association." (Cases cited).

Most of the testimony in the within case regarding loss of property value was by Mr. McWilliams, who essentially testified that any "transient use", such as to a renter from year to year, or even the use by the Bayit house by two or less students (which is uncontestedly allowed under the DR zoning) would have the same adverse effect on property values, and would potentially create the same annoyances about which he complained; namely, trash bags left outside the house, a barbecue grill on the back porch, a pizza box left next to the garbage bags, and visitors to the house mistakenly using his half of the common driveway. Such complaints relate not to the zoning issue, but to health code violations which could be committed by even one person living alone at the house. Even Mr. McWilliams testified that since July of 1988, when the occupants were no more than two, the same problems existed.

Mr. McWilliams complained that the Bayit house was no more than a fraternity house and was similar to a "fraternity of football players living next door." The Courts have long recognized that "students are people too", and have legally protected rights of association equal to those of non-students. Student groups have been found to constitute a "family" in a less traditional sense. For example, the U.S. District Court for the Eastern District of New York has held that:

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"...student-groups have an unquestionable right to live together in student groupings, to have their meals together and to share the expenses of their cooperative living...All these interests are legally protected...They are interests of association protected from prohibitions..." and have thereby been considered a family. Borras v. Village of Belle Terre, 367 F. Supp. 136 at 144-145 (1972).

The Maryland Court of Appeals has also ruled on other local zoning laws which require interpretation of the term "family". In the City of Takoma Park v. County Board of Appeals, 259 Md. 619, 270 A.2d 772 at 775, the Court of Appeals interpreted the zoning ordinance of the City of Takoma Park, Maryland, which is worded very similar to that of Baltimore County and defines a "family" as:

"An individual, or two or more persons related by blood or marriage, or a group of not more than five (5) persons (excluding servants) not related by blood or marriage, living together as a single housekeeping group in a dwelling unit." (emphasis added.)

The Court of Appeals specifically stated in the Takoma Park case that:

"We think the County Council intended to recognize that unrelated persons often live and work together." Id.

In the present case, although we do not have private citizens that live and work together, we have private citizen-students who live and study together. The Court of Appeals has therefore implicitly adopted the reasoning in the

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the subdivision plan, which is the case here. All testimony indicated that up to the purchase of the property by the Petitioners in September, 1986, the house had been used for single-family purposes.

The Petitioners also asserted that RTA status should be exempted because the exterior of the premises was suffering no external additions or alterations adversely affecting the neighborhood and done solely by virtue of its use as a Bayit house. Pictures were offered in support of this assertion.

The principal protestant, Mr. McWilliams, stated that there were alterations as follows:

1. Trash bags left outside the house.
2. Barbecue grill left on back porch.
3. Pizza box left next to trash bags.
4. Gravel installed over previously untreated parking area outside garage.
5. Car left outside house for couple of hours with mattress on top car.

Each one of the supposed alterations were not peculiar to the Bayit house. Any occupant of the house, such as a tenant or one or two students occupying the house, could easily cause all the alterations except No. 4. In fact, Mr. McWilliams admitted that the same problems had existed since July of 1988, which is after the number of occupants was reduced to two or less.

As to item No. 4, any occupant or owner of the house could have placed gravel in the parking area, whether for use by a family of six, or one. In fact, the neighbor to the rear of the

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religious groups have the Courts been willing to extend flexibility in condoning such a family use.

#### SPECIAL EXCEPTION

In the event the Zoning Commissioner does not find the Bayit Group to be a family, then Petitioners' request for a special exception would be considered. The special exception request has been combined with a willingness to enter into an agreement with Baltimore County pursuant to B.C.Z.R. 502.2, providing that a rooming house could be granted a special exception on the condition that it is maintained under the regulation of the Bayit program or otherwise exists for the purpose of maintaining a place of residence for college students who wish to live in an atmosphere of Jewish customs and traditions. This would alleviate community concerns about the precedent-setting affect of granting a "generic" rooming house.

In order to qualify for the special exception, the house would have to be exempt from residential transition area (hereafter "RTA") status which is defined in B.C.Z.R. § 1B01.1B as any house located within three hundred feet of any other dwelling. This section was known as Bill No. 100, as originally passed in 1970 by the Baltimore County Council. The house at issue in this case, although otherwise falling within that definition, is approximately thirty-five years old, and preceded the passing of that bill. Section 1B01.1B.1.d states that the RTA regulation shall not apply to existing developments described in 1B02.3, sub-paragraph A.1, which includes any lot recorded in a residential subdivision which has been used in accordance with

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"by three or more adult persons not related by blood, marriage or adoption to each other."

In the Ithaca case, the Court held that where the students qualify as a family, the boarding house issue should not be reached. Indeed, in the present case if the students qualify as a family, then the rooming house issue should not be reached. It can even be argued, for example, that all rooming houses in which the individuals operate as a single housekeeping unit, also qualify as a family. But it is emphasized that the definition of "family" in the B.C.Z.R. does not include any requirement of relationship by blood, marriage or adoption. This may create an ambiguity, but as stated supra, the Courts have refused to read into a regulation what is not contained therein. In Brady v. Superior Court, 200 C.A.2d 69 at 82 (1962), the Court stated, in dealing with a similarly ambiguous statute, that if the town "wants more restrictive zoning than its present enactment provides, (it) has the ready solution of passing a more explicit ordinance."

#### CONCLUSION ON FAMILY ISSUE

It is clear that jurisdictions around the country, including the Maryland city of Takoma Park have had zoning regulations defining "family" interpreted to include groups of persons communally living together as satisfying the definition where the regulation did not require relation by blood, marriage or adoption. In fact, such restrictions found in local ordinances have been found unconstitutional as violations of freedom of religion, association and privacy. Especially in the case of

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cases mentioned above which stand for the proposition that where a zoning ordinance fails to restrict residential use to cases of blood affinity, the Courts cannot impose a restriction not contained in the regulation. Statutes are generally held to be strictly construed. If the subject zoning regulations are deemed overly ambiguous and incapable of interpretation, that is one issue; however, the cases above clearly demonstrate that in other jurisdictions very similar ordinances have been upheld as simply interpreting the concept of "family" as going beyond blood relationship.

Further, in Ithaca v. Lucente, 126 App. Div. 2d 560, 317 N.Y.S.2d. 679 (1971), cited in 71 ALR3d. § 12(a) at page 724, another New York ordinance very similar to the Baltimore County regulation was applied in the situation in which a group of more than three students was occupying a home located in a single-family zoning area. The Court there held that where the regulation defined "family" as one or more persons occupying the premise as "a housekeeping unit", it was a permissible use. In that case it was argued that the definition of boarding house should have been applied since the zoning regulations there qualified three persons housed together as a boarding house, not a family. The Court rejected that argument, and held that the students should be allowed to live as a single family housekeeping unit. It is noteworthy that the same argument has been made in this case, namely that the students should fall within the meaning of rooming house, as stated in B.C.Z.R. 101(b), which defines a rooming house as a home occupied:

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property objected to the possible future paving of the parking pad due to possible water run-off, but admitted that even a different owner of the house with a family related by blood could pave the parking area for their own use, and he would still have the same objection.

Mr. McWilliams' complaints of an untidy yard and improper water drainage are more appropriately suited to other Baltimore County agencies for possible health code or sediment control violations. In fact, the Baltimore County Board of Appeals in F & S Limited Partnership, for a special exception for rooming house, Case No. 84-52-X, in a very similar situation, opined that "if the tenants under the proposed use do not comply with the Baltimore County laws, this is a police matter and not a zoning matter to be considered by this Board." In that case, the Board of Appeals also held that where the house pre-existed Bill 100 establishing the RTA, and where there were no external additions or alterations, the Board could exempt RTA status as simply not applying to that house. In this case, the house pre-existed the RTA regulation, and there are no external alterations necessitated by the Bayit use. The Board of Appeals was affirmed by the Circuit Court for Baltimore County, Case No. 84-CG-692 and in an unreported decision of the Court of Special Appeals, Case No. 17, Sept. Term, 1985, Southland Hills Improvement Assoc. v. F & S Limited Partnership.

A use such as that requested by the Petitioners is presumptively valid absent circumstance negating the presumption. Schultz v. Pritts, 291 Md.1, 432 A.2d 1319 (1981). Although

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the Petitioners must show that they have met the requirements of B.C.Z.R. 502.1, they do not have the burden of establishing affirmatively that the proposed use would benefit the community. Id. The Court of Appeals has stated that if the Petitioner: "...shows...that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden." Schultz, supra, 432 A.2d at 1325.

In the instant case, Dr. Rubin and Linda Weingarten (a former occupant of two years) testified that the use was not detrimental to the health, safety and general welfare of the locality, created no congestion in the streets, fire hazards, land overcrowding, school overcrowding, did not interfere with light and air, and was consistent with the property zoning classification and surface and vegetative retention provisions of the zoning regulations, all pursuant to § 502.1.

All protestants, except for Mr. McWilliams, had no real personal knowledge of what conduct existed in the Bayit house, and were mainly worried about the precedent-setting value of establishing a rooming house in the neighborhood. They felt that creating any rental situation at the house, even to a family related by blood, would diminish property values. As stated in the preceding section of this Memorandum, such speculative diminution in property values should not be considered, especially where a religious use is being considered. American Law of Zoning, supra, at § 12.27. This is especially the case where they claim that a rental use of any

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type, even to a blood-related family, would diminish property values.

Mr. McWilliams, who himself testified to having at least one party a year with forty or fifty people attending and drinking beer in his yard, pointed to no traffic congestion although he complained about visitors to the house mistakenly blocking his side of the driveway and lawfully parking on the curb (as did his guests). In one instance where a vehicle damaged his bush and the Bayit offered to pay him for it, he refused. It was questionable whether there was a consistent use of more parking spaces on the street, although no one complained of being unable to find a parking space. Nobody complained of loudness or unpleasant conduct emanating from the house. To the contrary, the Bayit occupants complained of loud gatherings, drinking beer and scattering of trash in the vicinity of the McWilliams' yard during summer months, some of which they believed they were blamed for. The use of the traditional Succoth hut outside the house, also complained about by Mr. McWilliams, is practiced by many families in Baltimore County, many of which are related by blood.

#### CONCLUSION AS TO SPECIAL EXCEPTION

If the Zoning Commissioner reaches the issue of special exception, it is respectfully requested that the rooming house use be granted subject to the condition (pursuant to § 502.2) that an agreement be entered into with the Zoning Commissioner that the rooming house continue so long as it is used in conjunction with the Bayit program or otherwise communally by

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students wishing to live in an atmosphere of Jewish customs and traditions.

Respectfully submitted,

MARK ALAN EPSTEIN  
SUITE 102-JEFFERSON BUILDING  
105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
821-1530  
Attorney for Petitioners

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th of April, 1988, a copy of the foregoing Memorandum of Law was mailed, postage pre-paid, to H. Patrick Stringer, Esq., MUDD, HARRISON & BURCH, 105 W. Chesapeake Avenue, Suite 300, Towson, Maryland 21204 and James D. O'Connor, Esquire, O'CONNOR & GRAHAM, Courthouse Commons, 222 Bosley Avenue, Suite 3-C, Towson, Maryland 21204.

30E/19P

MARK ALAN EPSTEIN

- 20 -

RTA Requirements do not apply if there is no exterior change or addition. . . .  
B. of A.  
Circuit Court Appeal  
Court of Sp. Appeals  
Agreed.  
UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND  
No. 716  
September Term, 1985

SOUTHLAND HILLS IMPROVEMENT  
ASSOCIATION OF BALTIMORE  
COUNTY, INC., et al.

v.

F & S LIMITED PARTNERSHIP

Weant,  
Alpert,  
Karwacki,  
JJ.

PER CURIAM

Filed: January 30, 1986

In 1967, F&S Limited Partnership, appellee, purchased the property located at 307 West Chesapeake Avenue in Towson, Maryland ("the property"). The property is improved by a dwelling, containing ten rooms plus three and one-half bathrooms, and was used as a rooming house prior to the proceedings that are the subject of this appeal.

Subsequent to the use of the property as a rooming house, Baltimore County enacted Bill 44-82, which promulgated certain conditions for rooming house uses. On June 2, 1983, appellee filed its application for a special exception with the Zoning Commissioner of Baltimore County, who denied the requested exception. Appellee appealed that decision to the Baltimore County Board of Appeals (Board of Appeals), which conducted a de novo hearing and granted the special exception.

On January 16, 1985, the decision by the Board of Appeals was appealed to the Circuit Court for Baltimore County. The appellants in that proceeding were Southland Hills Improvement Association of Baltimore County (SHIA), John R. McMahon (McMahon) and Patrick Deady (Deady). In that appeal it was contended that: (1) the application for the special exception was filed too late; (2) the application failed to meet the transition requirements of the zoning regulations; and (3) the Board of Appeals applied improper standards in approving the application. On February 5, 1985, appellee filed its Second Motion to Dismiss claiming that Deady had removed himself from the proceedings

2.

and that neither SHIA nor McMahon had standing to appeal. On April 3, 1985, the Circuit Court (Murphy, J.) denied appellee's Motion to Dismiss and affirmed the decision of the Board of Appeals granting the special exception.

SHIA and McMahon noted an appeal to this court raising the same issues it had placed before the circuit court. Appellee filed a cross-appeal in which it contends the circuit court should have granted the Motion to Dismiss.

I.

#### The Ruling of the Board of Appeals

Appellants contend that the application did not meet the transition standards of the density zones and that the Board erred in applying the standards for the approval of the special exception. We disagree with these assertions and shall, therefore, affirm the order of the circuit court.

#### A. Application of the Transition Regulations

The first part of appellants' argument is without merit as the transition standards cited by appellants, Section 1.B01.1 of the Baltimore County Zoning Regulations, do not apply to the property in this case. Subsection of 1.B01.1, in pertinent part, states:

The provisions of sub-subparagraphs a and b of this subparagraph shall not apply to existing developments as described in sub-subparagraphs A.1 of subsection 1.B02.3. . . .

FILED

3.

Sub-paragraph A.1 of subsection 1.B02.3 describes an existing development to be

Any lot which is in a recorded residential subdivision approved by the Baltimore County Planning Board or Baltimore County Planning Commission and which has been used, occupied, or improved in accordance with the approved subdivision plan. . . .

(Emphasis added).

In its opinion, the Board of Appeals noted that the subject property "is a single detached house whose existence precedes the passage of Bill 100, creating the transition zones." The record indicates that prior to the purchase of the property by the appellee in 1979, the property was leased for a non-residential use and, since that time, no residential family use has occurred. In fact, no evidence was offered at the Board of Appeals hearing to indicate that the use or the structure of the "existing development" had changed since appellee's purchase of it. The Board of Appeals concluded, in effect, that the property was not subject to the transition standards. Because we must defer to a decision by the Board of Appeals if there is sufficient evidence to justify their decision, Bulluck v. Pelham Wood Apts., 283 Md. 505 (1978); Bernstein v. Real Estate Commission, 221 Md. 221 (1959), we shall not disturb the Order of the Circuit Court on this point.

FILED



B. Approval of the Special Exception

The applicable standards for judicial review of the grant of a special exception use were summarized by the Court of Appeals in *Schultz v. Pritts*, 291 Md. 1, 11 (1981):

The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare. And therefore, valid. The special exception use is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating the presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually be a disturbance to the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide.

(Emphasis in original). In its opinion the Board of Appeals considered the evidence and concluded that the "proposed use would not

be detrimental to the welfare of the neighborhood in itself." Because this conclusion is supported by the record, we may not disturb the Board's ruling. *Schultz v. Pritts*; *Bullock v. Pelham Woods Apts.*, supra.

## II.

### The Timeliness of the Application

Section 3 of Bill 44-82 required that operators of rooming houses in violation thereof "shall cease and be terminated on or before October 1, 1983, unless, no later than six months prior to October 1, 1983, an application is filed for a special exception." Appellant contends that because appellee's application was not filed until June 2, 1983, less than "six months prior to October 1, 1983," a condition precedent to the granting of the special exception was not met, and cites *Kassab v. Burkhardt*, 34 Md. App. 699 (1977).

In *Kassab*, the language held to be a condition precedent to approval of the special exception reads as follows:

No PUD Development Plan will be approved unless the proposed development will be served by public or private water and sewerage disposal systems which shall be existing at the time the plan is first submitted for approval.

34 Md. App. at 702 (quoting Cecil County Zoning Ordinance §5(12)(G)). The language in that case is clearly distinguishable

from the Baltimore County Zoning provisions at issue. The Cecil County ordinance precludes approval unless the condition is met; the Baltimore County Bill 44-82 states that a rooming house shall cease and be terminated unless the condition is met, but it does not preclude approval by the Board of Appeals. Therefore, appellants' reliance on *Kassab* is inapposite here. In its opinion, the Board of Appeals adequately explained the extenuating circumstances that excused the delinquent application:

On February 16, 1982, Petitioner filed a request for reclassification from DR 5.5 to R.O. In the interim, he had leased the property to a single lessee who in turn was subleasing rooms. On October 13, 1982 and November 4, 1982, hearings were conducted on the reclassification and on January 4, 1983, the request was denied. This decision was appealed to the Circuit Court and on May 10, 1983, the Circuit Court affirmed the Board's decision and again denied the R.O. use. This decision was appealed to the Court of Special Appeals. It is obvious that up to this time, Petitioner is doing everything legally possible to protect his renovation expenses and attempting to obtain the office use sought. The petition for a special exception for a rooming house filed on June 2, 1983, was obviously an attempt to protect its present use while petition while all these other processes were pending. To deny him the right to his appeal to the Court of Special Appeals were taking place which could possibly moot the petition for a rooming house at any time, would in the Board's opinion be arbitrary and the Board will therefore declare the petition acceptable.

MICROFILMED

The lower court agreed with the Board's actions in this regard, and we are similarly persuaded.

JUDGMENTS AFFIRMED;  
COSTS TO BE PAID  
BY APPELLANTS.

RECEIVED  
COUNTY BOARD OF APPEALS  
APR 3 1983  
A.D. 20

F & S Limited Partnership  
Case No. 84-52-X

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

William T. Hackett, Chairman  
William R. Evans  
Leroy B. Spitzer

## PETITION FOR SPECIAL EXCEPTION 84-52-X

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for a rooming house under Bill 44-82 of the County Council.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser(s):

(Type or Print Name)

Signature

Address

City and State

County, for Petitioner:

Signature: Howard L. Fink

Address: 307 West Pennsylvania Ave., 21204

City and State: Towson, Maryland 21204

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

THE SOUTHLAND HILLS  
IMPROVEMENT ASSOCIATION OF  
BALTIMORE COUNTY, INC.  
TOWSON, MARYLAND, et al.

Appellants  
VS.  
F & S LIMITED PARTNERSHIP  
BOARD OF APPEALS

Appellee  
#84-52-X

ORDER  
For the reasons stated on the record in open Court after reviewing the entire record on appeal and after hearing argument of counsel,

IT IS THIS 3rd DAY OF APRIL, 1985, BY THE CIRCUIT COURT FOR BALTIMORE COUNTY

ORDERED that Appellee's Motion for Dismissal of Appellants' Appeal be and the same is hereby DENIED; and it is further

ORDERED that the August 9, 1984 Opinion and Order of the Board of Appeals be and the same is hereby AFFIRMED.

Joseph P. Murphy, Jr.  
Judge

FILED APR-4 1985

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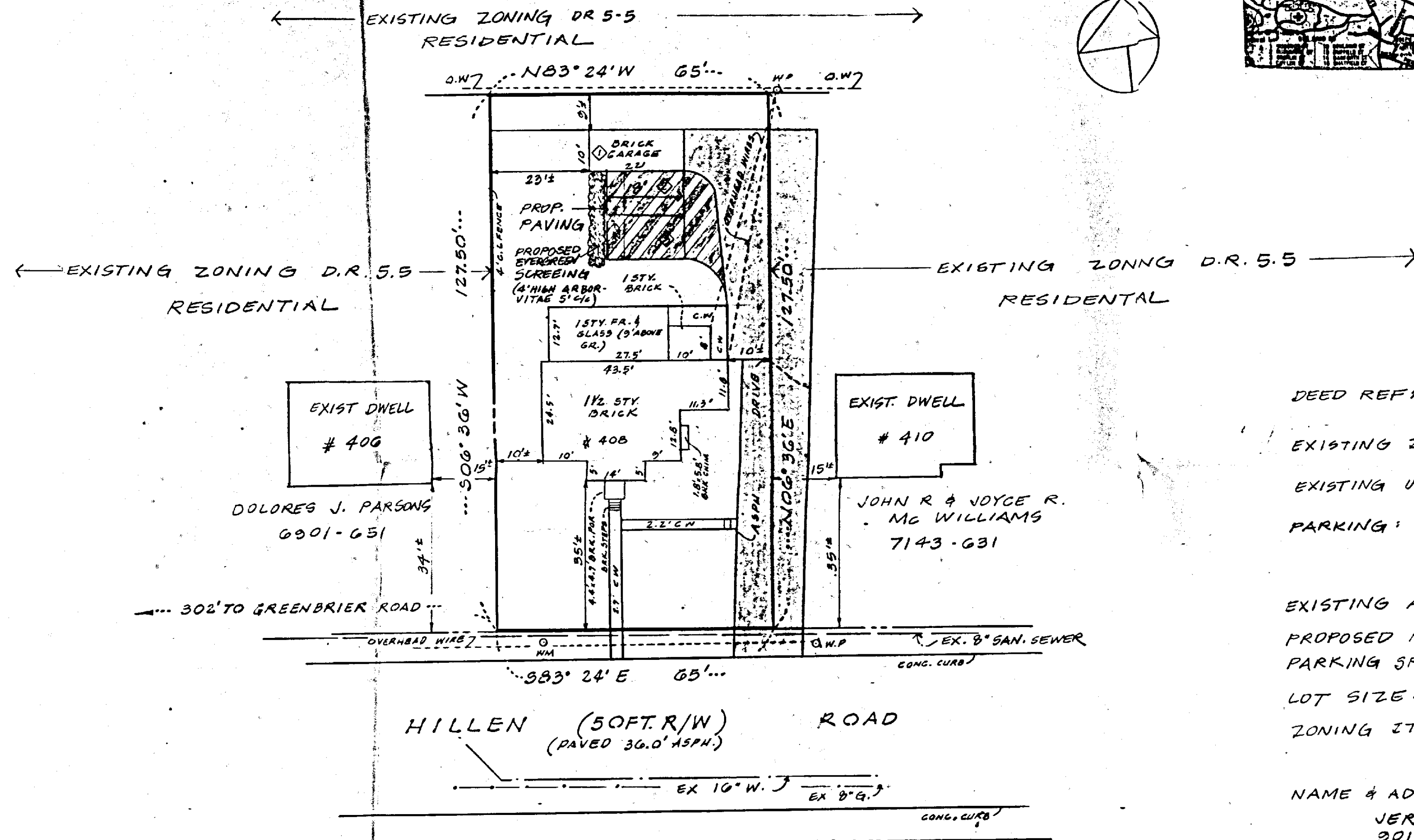
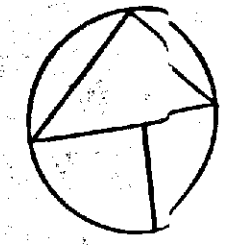
1985

1985





VICINITY MAP  
Scale: 1" = 2000



NOTES:

DEED REF: LAWRENCE RUBIN, JEROME & BARBARA RUBIN  
LIBER 7448, PAGE 083  
SUBDIVISION GREENBRIER P.B. 12-68

EXISTING ZONING: D.R. 5.5

EXISTING UTILITIES ARE IN HILLEN ROAD

PARKING: SPACES REQUIRED: 2  
SPACES PROVIDED: 3 (1 IN GARAGE  
2 OUTSIDE)

EXISTING ASPHALT DRIVE SHOWN: [Symbol]

PROPOSED PAVING SHOWN: [Symbol]

PARKING SPACE NUMBERS SHOWN: [Symbol]

LOT SIZE: 8287.5 S.F. ±

ZONING ITEM # 390

NAME & ADDRESS OF PETITIONER:  
JEROME RUBIN, PH.D.  
3015 PITTSFIELD ROAD  
BALTIMORE, MD. 21208

PLAT TO ACCOMPANY ZONING  
PETITION FOR SPECIAL EXCEPTION  
AND SPECIAL HEARING

#408 HILLEN ROAD  
ELECTION DISTRICT No. 9  
BALTO. COUNTY, MARYLAND

#390

SCALE: 1" = 20' DATE: JUNE 11, 1988

REVISOR PLANS

PETITIONER'S EXHIBIT

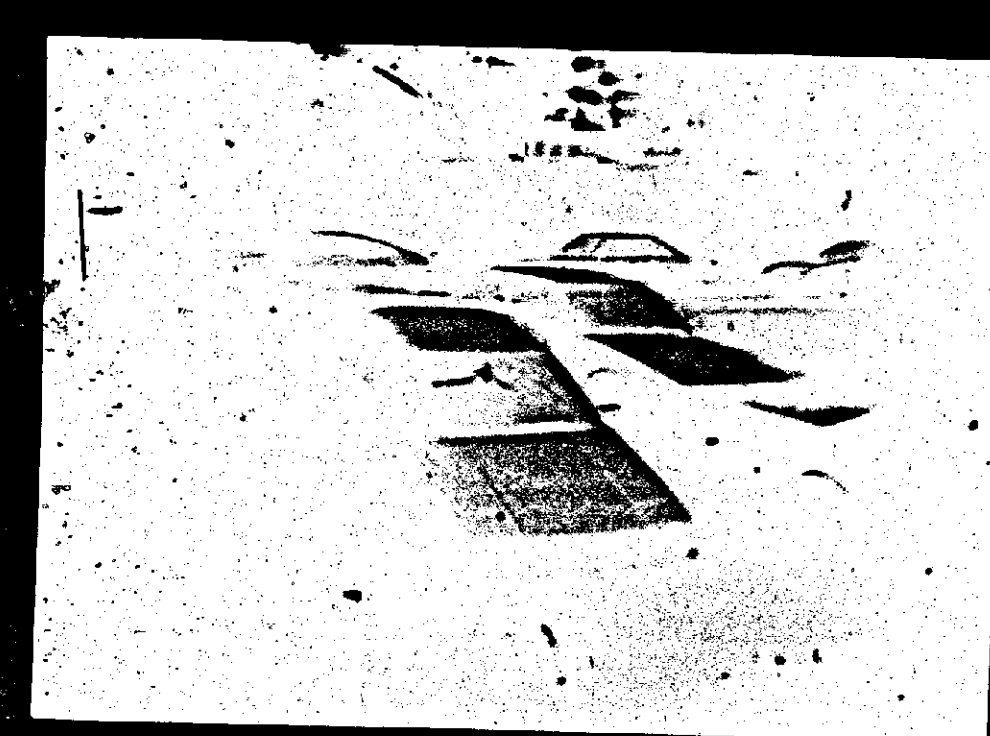
prepared by:  
H. MAHMOUD & ASSOCIATES, INC.  
100 Church Lane  
Baltimore, Maryland 21208  
Telephone (301) 453-9511







PROTESTANTS  
PETITIONER(S) EXHIBIT (5)



A



B

PLEASE PRINT CLEARLY

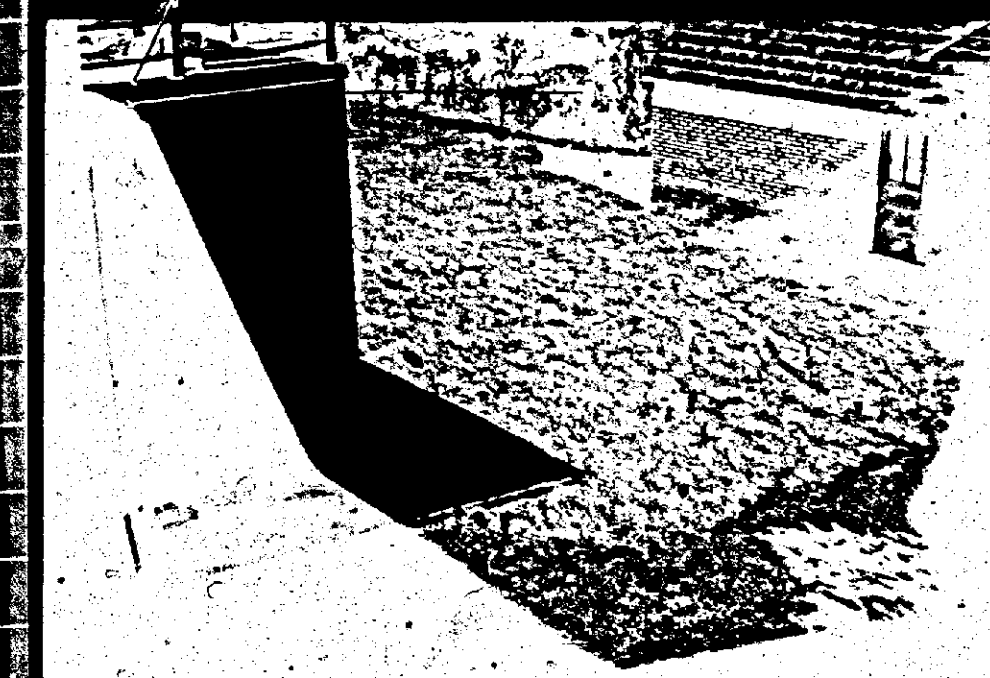
PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Frank Chandler	122 Greenbrier Rd.
Ann Connors	512 Overcrest Rd.
Margaret S. Wilson	508 Overcrest Rd.
Judith Hawkins	511 Brook Rd.
Carolyn King	303 Brook Rd.
William H. Brown	111 Greenbrier Road
Brian O. Bessley	108 Greenbrier Road
Marie Brown	403 Fox Hills Court
Robert H. Brown	403 Fox Hills Court
Charles O.	504 Holden Rd.
Don Brown	506 Overcrest Rd.
Katherine W. Connor	512 Overcrest Rd.
Paul G. Roberts	1201 Stevenson Lane
John J. Phillips	307 Brook Road
Thomas A. Anderson	115 Greenbrier Rd.
King S. Walker	401 Brook Rd.
Frank S. Walker	401 Brook Rd.
Clare P. Brown	123 Greenbrier Rd.
James H. Brown	115 Greenbrier Rd.
Margaret M. Brown	409 Brook Rd.
John S. Brown	409 Brook Rd.
Paul Brown	409 Brook Rd.
William A. Brown	411 Brook Rd.
John A. Brown	413 Brook Rd.
May S. Brown	413 Brook Rd.

Protestants Exhibits

- 1 A, B, C - Photographs
- 2 A, B photographs
- 3 May 13, 1988 -
- 4 photographs
- 5 photographs
- 6 photograph
- 7 photographs
- 8 photograph
- 9 photographs
- 10 Photographs A-G
- 11 July 11, 1988
- 12 July 18, 1988

PROTESTANT'S  
PETITIONER(S) EXHIBIT (1)



A

Protestants  
PETITIONER(S) EXHIBIT (1)



B



C

Protestants  
PETITIONER(S) EXHIBIT (2)



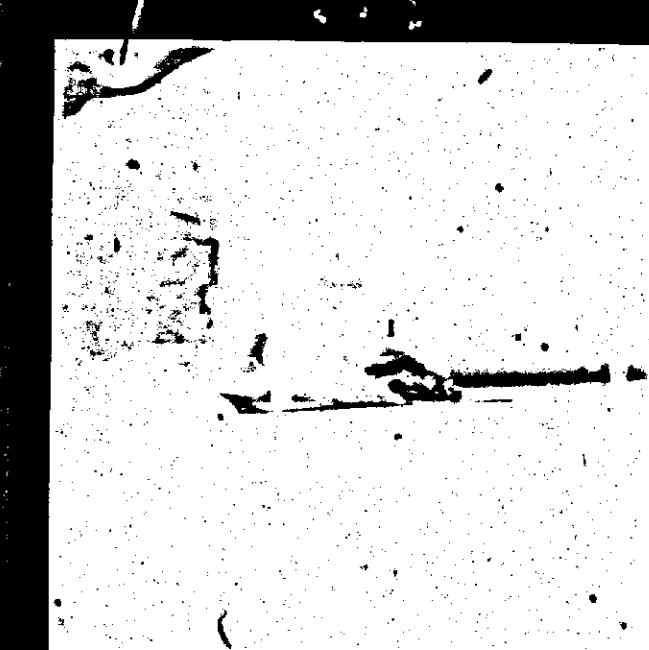
2A



2B



A



B



Protestants  
PETITIONER(S) EXHIBIT (8)



A



B



C



Protestants  
PETITIONER(S) EXHIBIT (7)



July 18, 1988

Mr. J. Robert Haines  
Zoning Commissioner of Baltimore County  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Re: Petitions for Special Hearing and  
Special Exception  
Case Number: 89-12-SPHX  
N/S Hillen Road, 331.70' E c/l Greenbrier Road  
(408 Hillen Road)  
Petitioner: Jerome Rubin et al

Dear Mr. Haines:

We are the Presidents of community associations in proximity to 408 Hillen Road, and we unanimously oppose the Petitions for a Special Hearing and Special Exception to operate a rooming house at 408 Hillen Road. The operation of a rooming house is not in character with the Greenbrier community, a neighborhood consisting of all single family homes, and sets a dangerous precedent. On behalf of the residents of our respective neighborhoods, we urge you to deny the Petitions for Special Exception and Special Hearing to operate a rooming house at 408 Hillen Road.

Community Associations:

LOCH RAVEN VILLAGE

TOWSON ESTATES

BREEZEWICH

KNETTISHALL

FELLOWSHIP FOREST

TOWSON MANOR ASSOCIATION

Therese R. Donoghue

*Thomas D. Lynch*

*Patrick J. Cassidy*

*James R. Murphy*

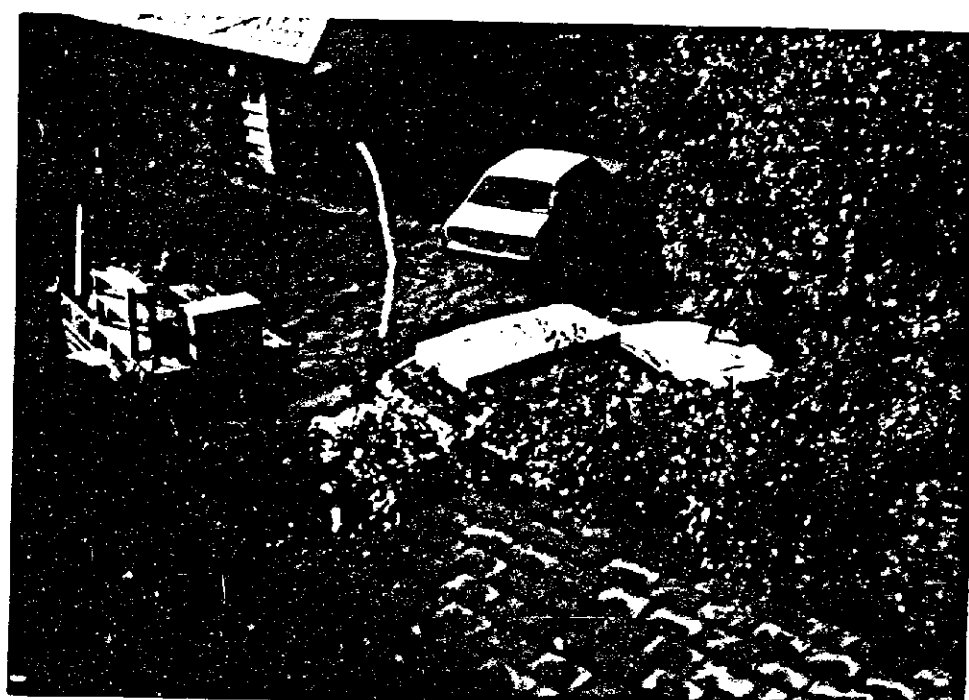
*Jeffrey B. Nichols*

*Jack H.*

*Anne P. Wreble*

**PROTESTANTS**  
**EXHIBIT 10**

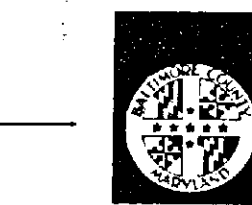
Protestants  
PETITIONER(S) EXHIBIT (6)



Western Community Services

Our office received a complaint about trash & debris on your property.

Date 5/13/88



Dennis F. Rasmussen  
County Executive

Dear Resident:

An inspection of this neighborhood reveals certain unsanitary conditions on your premises located at 408 Hillen Rd.

You are notified to make the following corrections within the next 10 days.

Get trash cans

- ✓ Provide approved containers with tight fitting lids for refuse disposal. (Plastics bags may be used as liners and put out for collection ONLY on the day of collection).
- ✓ Clean the premises of all trash, junk and debris.
- ( ) Remove unclean animal food from ground and keep premises free of manure.
- ( ) Elevate lumber, pipes and other stored material at least 18" from the ground surface.
- ( ) Eliminate rodent infestation -- remove all harborages and food sources and seal all burrows.
- ( ) Cut and remove overgrown grass and weeds to a height of 3" or less.

REMARKS: Remove the junk & debris from the back porch; & metal scrap (debris) from behind the garage; & remove the garbage bags & debris from the side of the house (near the driveway).

The checked items not only tend to deteriorate your property but they are in violation of the health laws of Baltimore County.

Your cooperation in correcting the items indicated above will be greatly appreciated.

If you have any questions, please contact DAN ESSER, Sanitarian, at 833-0466 between the hours of 8:00 & 9:00 a.m. or 8:30 & 9:30 a.m., Mondays through Fridays.

833-0466

Yours truly,

**PROTESTANTS**  
**EXHIBIT 10**  
Sanitarian II

CH 23-12/87

July 11, 1988

Mr. J. Robert Haines  
Zoning Commissioner of Baltimore County  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Re: Petitions for Special Hearing and  
Special Exception  
Case Number: 89-12-SPHX  
N/S Hillen Road, 331.70' E c/l Greenbrier Road  
(408 Hillen Road)  
Petitioner: Jerome Rubin et al

Dear Mr. Haines:

We, the residents of the Greenbrier Community Association, vigorously oppose the Petitions for a Special Hearing and Special Exception to operate a rooming house in our neighborhood at 408 Hillen Road. The operation of a rooming house is not in character with Greenbrier, a neighborhood consisting of all single family homes. The granting of a special exception and an exemption from the restrictions of a Residential Transition Area to an absentee owner to operate a rooming house is not in keeping with the spirit and intent of the Baltimore County Zoning Regulations and would negatively impact our neighborhood.

We, therefore, urge you to deny the Petitions for Special Exception and Special Hearing to operate a rooming house at 408 Hillen Road.

Name Address

*Patricia Stringer* 506 Holden Rd.

*Sherry* 533 Brook Rd.

*Anna M. Hume* 576 Overbrook Rd.

*Marion W. Johnson* 576 Overbrook Rd.

506 Holden Rd.

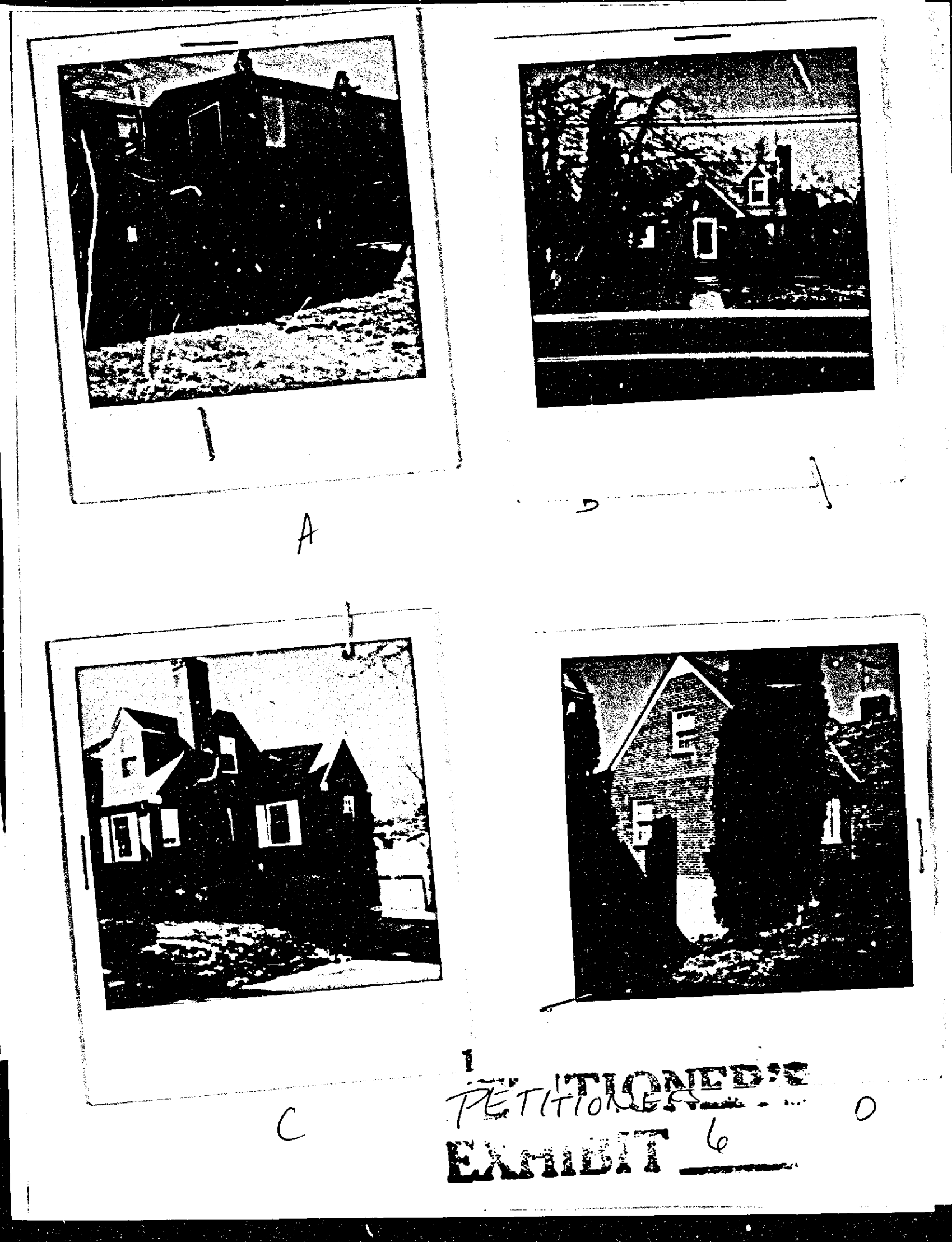
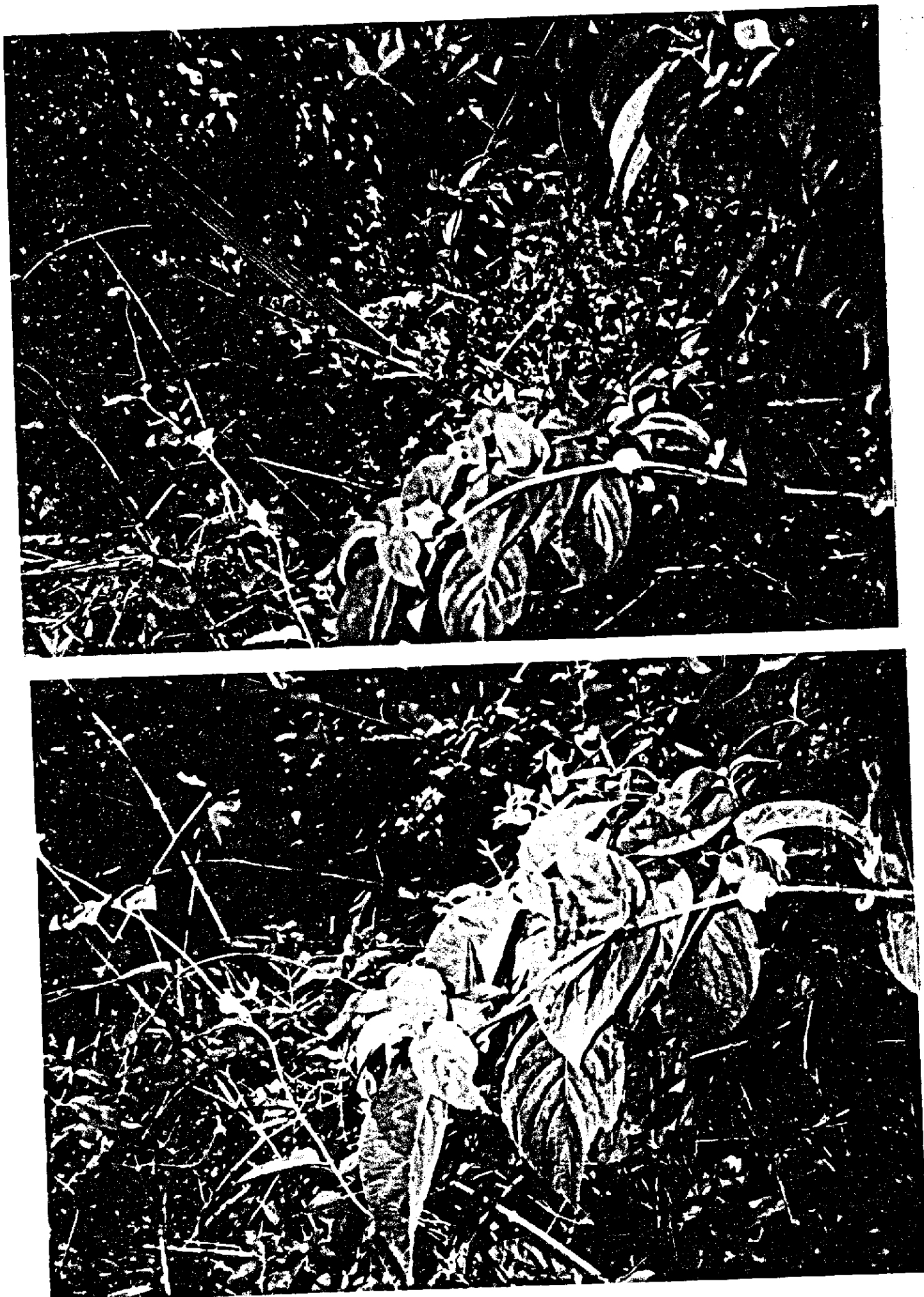
533 Brook Rd.

576 Overbrook Rd.

576 Overbrook Rd.

**PROTESTANTS**  
**EXHIBIT 10**





PETITIONER'S  
EXHIBIT 6



Bayit Period valid: \_\_\_\_\_

#### BAYIT LIVING CONTRACT

This is a living contract designed to allow the Bayit to work. It contains a list of agreements that allow a Chevra (communal spirit) to prevail, providing the Bayit with a sense of Jewish purpose and fulfillment, as well as offering the larger community a valuable service.

In order to be a member of a Bayit, each Bayitnik must sign the contract as an acknowledgement of having read and accepted all of these agreements. Living in a Bayit demands an awareness that you have selected you to be a member of and that this community has selected you to be a member of it. This contract is valid for a maximum period of one year and must be renewed thereafter. It is valid only when signed by both the Bayitnik and a member of the Bayit Project staff.

In order to secure the right to participation in the Bayit Project, I will be expected to fulfill the following responsibilities:

#### PROGRAM GOALS OF THE BAYIT PROJECT

Bayit living is an experience which fosters personal growth, increased Jewish knowledge and a commitment to the Jewish community. The Bayit Project offers ongoing support, education and resources to facilitate Bayit members and the Bayit as a whole, in a process of exploration and learning. In order to benefit from this process, I understand that my attendance at meetings with the Bayit Project staff, as well as at Bayit meetings, is expected of a Bayit representative and at Bayit meetings, is expected of a Bayit representative and at Bayit meetings, is expected of a Bayit representative.

PETITIONER'S  
EXHIBIT 3

6742 Van Nuys Blvd. • #201 • Van Nuys, CA 91405 • (818) 909-7471



#### BAYIT PROJECT STUDENT BOARD MEETING JANUARY 30 - FEBRUARY 1, 1987 MINUTES

I. The students met in committees and developed proposals that they presented at the general discussion.

##### COMMITTEE REPORT #1 Kashrut and Shabbat

Levels of Kashrut vary in each house. Factors to be considered are:

- Know the fundamentals of Kashrut
- Consider the person with the most stringent restrictions
- Ongoing dialogue should accompany the decisions and compromises.

Suggestions:  
- Bayit Guide of Kashrut with full explanation of rules and Bayit Project minimum observance policies (i.e. separate milk and meat, all meat must be kosher, no unacceptable seafood (including shrimp, lobster, clams, etc.), and no animal fat or lard in ingredients. Have Guide list different levels of choices. Have Guide provide definitions, glossary, bibliography, etc.

- Contract should clearly state what level of Kashrut is to be observed so when a new student moves into the Bayit, there will be no misunderstandings or assumptions.

- A rabbi with full knowledge of the laws of Kashrut is helpful so that if at any time a Bayit has a question pertaining to Kashrut the rabbi will be available for answers.

##### COMMITTEE REPORT #2 Bayit Project Relations

Suggestions:  
- Have a large "Bayit Map" that illustrates where the Bayit are across the country.

- Each Bayit should have a roster of the names of other Bayitniks across the country.

- Each Bayit should have a list of Bayit Project staff with a paragraph describing each person and their position, so that when Bayitniks call, they know whom to direct their call. This packet should also contain what is expected of a Bayit and its members, what role the Bayit Project and the Field Reps play and the history of the Bayit Project.

6742 Van Nuys Blvd. • #201 • Van Nuys, CA 91405 • (818) 909-7471

#### PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
S. <u>Lucas Rubin, A.D.</u>	
S. <u>Rev. Edward E. Allright</u>	<u>7909 York Rd 21207</u>
S. <u>John Joseph Bay</u>	<u>222 24th St 21215</u>
S. <u>Barbara C. Lutz</u>	<u>6576-D Park Heights Ave 21215</u>
S. <u>Barbara Rubin</u>	
S. <u>Larry C. Rubin</u>	<u>8005 Arrowhead Rd 21208</u>
S. <u>Stacy W. Warganda</u>	<u>44 Tumbler Way Ct Potomac 21156</u>
S. <u>David Kornfeld</u>	<u>708 Hesperia Rd 21207</u>
S. <u>Alan Brubaker</u>	<u>5919 Johnsonville Rd</u>
S. <u>John W. Wilson</u>	<u>3920 New Rd Potomac</u>
S. <u>Gary Weiss</u>	<u>3715 Vega Road Randallstown 21133</u>
S. <u>David Weiss</u>	<u>3715 Vega Road 21133</u>
S. <u>Robert P. Chong</u>	<u>487 Hillen Rd 21204</u>
S. <u>Rebun Solomon</u>	<u>1801 BRICKHOUSE LN. PINESTON MD 21092</u>



#### THE BAYIT PROJECT

#### OPERATIONS MANUAL

July, 1985

PETITIONER'S  
EXHIBIT 2

5311 Topanga Canyon Blvd. • Suite 300 • Woodland Hills, CA 91364 • (818) 888-0355

SISTATEN		PAGE 01		SAVINGS ACCOUNT		BR# 01 14MAR88	
				INSTANT NOW STATEMENT		TERM# 01 01:30 PM	
ACCOUNT ID: 06-32-0000084107		011287,		NONRETAINED HISTORY DATE		*** 29JUL87 ***	
SAVER'S NAME: 101 1 THE-TOWSON BAYIT							
T/C	PROC	DT	EFF	DT	CK	NBR	DESCRIPT
				WITHDRAWALS EARNINGS DEPOSITS			
				RUNNING BALANCE			
402	02DEC87	0203	00/00/57	127.18	TR-0020319633		1,450.00
402	03DEC87	0205	00/00/57	50.79	TR-0020207817		1,399.21
402	07DEC87	0206	00/00/57	66.77	TR-0020310389		1,332.44
402	15DEC87	0207	00/00/57	239.08	TR-0020220603		1,093.36
402	17DEC87	0208	00/00/57	38.75	TR-0020141333		1,054.61
402	23DEC87	0204	00/00/57	660.00	TR-0020044099		394.61
402	26DEC87	0209	00/00/57	77.71	TR-0020029535		316.90
349	30DEC87	31DEC87					321.50
301	05JAN88					220.00	541.50
303	05JAN88					341.00	862.50
303	05JAN88					321.60	1,203.50
402	06JAN88	0210	00/00/57	159.26	TR-0020105853		1,324.50
402	07JAN88	0212	00/00/57	58.28	TR-0020009556		1,165.24
402	19JAN88	0214	00/00/57	45.09	TR-0020224076		1,106.96
DEPRESS XMIT FOR PAGE 02							1,061.87
SISTATEN	PAGE 02		SAVINGS ACCOUNT		BR# 01 14MAR88		
				INSTANT NOW STATEMENT		TERM# 01 01:30 PM	
ACCOUNT ID: 06-32-0000084107		011287,		NONRETAINED HISTORY DATE		*** 29JUL87 ***	
SAVER'S NAME: 101 1 THE-TOWSON BAYIT							
T/C	PROC	DT	EFF	DT	CK	NBR	DESCRIPT
				WITHDRAWALS EARNINGS DEPOSITS			
				RUNNING BALANCE			
402	25JAN88	0215	00/00/57	25.63	TR-0010110531		1,036.24
301	27JAN88	0216	00/00/57	132.09	TR-0010137153		1,862.24
402	28JAN88	0217	00/00/57	220.87	TR-0020125649		1,729.35
402	29JAN88					4.91	1,500.48
349	30JAN88	31JAN88		53.34	TR-0020146984		1,513.39
402	04FEB88	0219	00/00/57	88.21	TR-0020204671		1,460.05
402	11FEB88	0220	00/00/57	440.00	TR-0020820343		1,371.84
402	17FEB88	0218	00/00/57	440.00	TR-0020040330		931.84
402	18FEB88	0211	00/00/57	220.00	TR-0020040330		491.84
402	18FEB88	0213	00/00/57	98.42	TR-0010040000		271.84
402	22FEB88	0221	00/00/57	3.87			181.42
349	27FEB88	29FEB88		83.20	TR-0020240452		102.09
402	01MAR88	0222	00/00/57	9.63	TR-0020141124		92.46
402	04MAR88	0225	00/00/57	8.39	TR-0020316232		84.07
DEPRESS XMIT FOR PAGE 03							
SISTATEN	PAGE 03		SAVINGS ACCOUNT		BR# 01 14MAR88		
				INSTANT NOW STATEMENT		TERM# 01 01:30 PM	
ACCOUNT ID: 06-32-0000084107		011287,		NONRETAINED HISTORY DATE		*** 29JUL87 ***	
SAVER'S NAME: 101 1 THE-TOWSON BAYIT							
T/C	PROC	DT	EFF	DT	CK	NBR	DESCRIPT
				WITHDRAWALS EARNINGS DEPOSITS			
				RUNNING BALANCE			
301	14MAR88					1,363.00	1,447.07

PETITIONER'S  
EXHIBIT 5

END OF INQUIRY